

INVITATION TO BID

FOR

**FC- 5965, ADA Parking Lot Spatial
Improvements at Various Locations**



Atlanta, Georgia

**Kasim Reed
Mayor
City of Atlanta**

**George A. Dusenbury
Commissioner
Department of Parks, Recreation and Cultural Affairs**

**Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
Department of Procurement**



CITY OF ATLANTA

Kasim Reed
Mayor

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DEPARTMENT OF PROCUREMENT
Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
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May 14, 2012

ATTENTION INTERESTED BIDDERS:

Your firm is hereby invited to submit to the City of Atlanta (the "City"), Department of Procurement (the "DOP"), a bid for **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations**.

The City's DOP, on behalf of the Department of Parks, Recreation & Cultural Affairs ("DPRCA"), is seeking bids from qualified bidders to provide renovations to include, but not limited to, asphalt removal, concrete installation, ADA ramp installations, curb-cuts, parking lot striping and ADA signage as outlined in the scope of services section of the aforementioned solicitation document. These ADA improvements will be required at four (4) City locations.

A **Pre-bid Conference** will be held on **Tuesday, May 29th, at 11:00 a.m.**, at the DOP's Conference Room in Suite 1900. The purpose of the Pre-bid Conference is to provide bidders with detailed information regarding the project and to address questions and concerns. There will be representatives from the DPRCA and the Office of Contract Compliance available at the conference to discuss this project and to answer any questions. Bidders are urged to attend the Pre-bid Conference.

Bidders will be allowed to ask questions during the Pre-Bid Conference. However, please note that oral answers to questions during the Pre-Bid Conference on May 29, 2012, are not authoritative. The last date to submit questions in writing is June 1, 2012.

Your response to this invitation to bid will be received by designated staff of the Department of Procurement at 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303, **no later than 1:59 p.m., Wednesday, June 13, 2012**.

****ABSOLUTELY NO BIDS WILL BE ACCEPTED AFTER 1:59 P.M.****

Bids will be publicly opened and read at 2:00 p. m. on the respective due date in Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303.

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This Bid is being made available by electronic means. If accepted by such means, then the Bidder acknowledges and accepts full responsibility to insure that no changes are made to the Bid. In the event of conflict between a version of the Bid in the Bidder's possession and the version maintained by DOP, the version maintained by the DOP shall govern.

You are required to email and confirm receipt of your business name, contact person, address, phone number, fax number and the project number to Ms. Mimie L. Woods, CPPB, Contracting Officer, at mwoods@atlantaga.gov, to be placed on the Plan Holders List. Failure to do so will prevent you from receiving any addenda that are issued and may deem you non-responsive.

The bid document may also be obtained from the Department of Procurement, Plan Room, City Hall South, Suite 1900, 55 Trinity Avenue, S.W., Atlanta, Georgia, 30303, at a cost of \$50.00 per package, beginning on Monday, May 14, 2012.

The City reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all bids when it is for good cause and in its best interest.

Thank you for your interest in doing business with the City.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam L. Smith", with a stylized flourish at the end.

Adam L. Smith

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PART 1
INSTRUCTIONS TO BIDDERS

FC-5965, ADA Parking Lot Spatial Improvements at Various Locations

PART I

INSTRUCTIONS TO BIDDERS

1. SOLICITATION/NOT OFFER

This solicitation does not constitute an offer by the City of Atlanta (the “City”) to enter into an agreement and is not an offer that can be accepted by the Bidder to form an agreement. No language contained anywhere in this solicitation should be construed or interpreted to convey an offer to enter into agreement with the City. The terms of this solicitation are to be considered as a whole. However, no terms may be considered in whole or in part to constitute an offer to enter into an agreement with the City.

This solicitation is only an invitation for offers from interested Bidders and no offer shall bind the City.

This solicitation is an invitation for the Bidder to make an offer to the City in the form of a Bid. No offer made in response to the terms and conditions of this solicitation may include any terms and conditions which can bind the City to any contractual Agreement until such time as the Agreement has first been awarded by the City to the most responsible and responsive bidder whose bid meets the material requirements and criteria set forth in the solicitation and is accepted and fully executed and sealed by agents of the City designated on the signature page of the Agreement included in the solicitation. The term of your offer must conform to all applicable federal and local laws, including all ordinances of the City and all requirements of the solicitation.

YOUR OFFER IS A FIRM OFFER AND MAY NOT BE WITHDRAWN EXCEPT AS AUTHORIZED IN THE CODE OF ORDINANCES OF THE CITY OF ATLANTA.

Your response to this solicitation is a firm offer, which the City may accept or reject in whole or in part without any further action on your part. The acceptance of your offer by the City will form an Agreement, which is enforceable against you. **Your offer may not be withdrawn except under the terms and conditions specified in the Procurement and Real Estate Code of the City of Atlanta as codified in Part 5, Chapter 5 of the Code of Ordinances of the City of Atlanta or OCGA 36-91-52.**

2. RECEIPT AND OPENING OF BIDS

Sealed Bids for the construction of **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations** will be received by designated staff of the Department of Procurement, Suite 1790, City Hall South, 55 Trinity Avenue, S.W., Atlanta Georgia 30303, no later than **1:59 p.m., EST**, (as verified by the Bureau of National Standards) on **June 13, 2012**.

ABSOLUTELY NO BID WILL BE ACCEPTED AFTER 1:59 P.M.

All Bids received by the time and date established above will be opened and publicly read.

3. PREPARATION OF BIDS

All Bids must be submitted on bid document forms supplied by the City and shall be subject to all requirements of the Agreement Documents. All Bids must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Bid by the Bidder.

Lump sum, unit price, and extensions of unit prices must be entered in the appropriate spaces provided on the Bid Schedule/Bid Form. Unit prices shall include an appropriate allocation of overhead and other indirect costs so that the summation of unit price extensions and lump sum items represents the total bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of Work affecting the item to which such amount relates.

The City may consider as irregular any conditional bid or any Bid on which there is an alteration of, or departure from, the Bid Schedule hereto attached and at its option may reject the same.

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder. Failure to do so shall render the Bidder as non-responsive and cause rejection of the Bid.

Failure to execute the Bid Schedule/Bid Form documents may render the Bidder as non-responsive and cause rejection of the Bid.

4. HOW TO SUBMIT BIDS (REQUIRED SUBMITTAL)

The Bid and required submittals, including the Bid Schedule, the Bid Documentation, the Bid Form, the acknowledgment of each Addendum, the Bid Bond Guarantee, the Power of Attorney for the attorney-in-fact signing the Bid Guarantee, the Affidavit, Office of Contract Compliance forms/certificates, and other documents as required in these Agreement documents may be photocopied for submission of Bids. **Submit (1) original and five (5) copies of the Bid and required attachments.**

The complete package of Bid documents shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the project name and numbers, name of Bidder and date and time of bid opening in order to guard against premature opening of the Bid.

Bids must be addressed to:

Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
Department of Procurement
55 Trinity Avenue, Suite 1900
Atlanta, GA 30303-0307

5. EXECUTION OF BIDDING DOCUMENTS

A complete set of Bidding Documents have been bound separately from the agreement forms and Specifications for the use of Bidders. Bidders shall submit their Bids, together with the bid guarantee and all forms which the Bidder is required to sign, executed in the appropriate manner as set forth below:

- a. If the Bidder is a corporation, all documents requiring execution by the Bidder shall be signed by the president or vice-president of the corporation, whose signature shall be attested by the secretary or assistant secretary of the corporation and the corporate seal affixed.
- b. If the Bidder is an individual, he or she shall sign the documents and his or her signature shall be notarized by a notary public.
- c. If the Bidder is an individual doing business under a trade name, all documents shall be signed by the Bidder whose signature shall be followed by either, "doing business as," or "trading as," followed by the trade name of the Bidder's business, and notarized by a notary public.
- d. If the Bidder is a partnership, all forms shall be executed by placing the name of the partnership followed by "By: (the name of the partner executing)" followed by the word "Partner," and notarized by a notary public.
- e. If the Bidder is a joint venture, each party to the joint venture shall execute the Bidding Documents in the manner set forth in items a, b, c, or d of this article of the Instructions to Bidders as appropriate for this type of organization.

If the Bidder is a Joint Venture, all other documents in the Bidding Documents shall be executed by one of the parties to the joint venture, as provided by Article 4 of the Joint Venture Statement, in the same manner as the executed said Joint Venture Statement.

6. FAILURE TO BID

Your failure to respond to this Invitation to Bid may result in the removal of your company from the City's Bid list.

7. ERRORS IN BIDS

Bidders and their authorized representatives are expected to fully familiarize themselves with the conditions, requirements, and Specifications before submitting Bid. Failure to do so will be at the Bidder's own risk. In case of error in extension or prices in the Bid, the unit prices(s) shall govern.

8. DISQUALIFICATION OF BIDDERS

Any of the following may be considered as sufficient for disqualification of a Bidder and the rejection of the Bid:

- a. Submission of more than one Bid for the same work by an individual, firm, partnership or Corporation under the same or different name(s);
- b. Evidence of collusion among Bidders;
- c. Previous participation in collusive bidding on Work for the City;
- d. Submission of an unbalanced Bid, in which the prices quoted for same items are out of proportion to the prices for other items;
- e. Lack of competency of Bidder (the Agreement will be awarded only to a Bidder(s) rated as capable of performing the Work; the City may declare any Bidder ineligible at any time during the process of receiving Bids or awarding the Agreement where developments arise which, in the opinion, the City adversely affect the Bidder's responsibility; however, the Bidder will be given an opportunity by the City to present additional evidence before final action is taken;
- f. Lack of responsibility as shown by past Work judged from the standpoint of workmanship and progress; financial irresponsibility, including but not limited to, leaving retainage in City account;
- g. Uncompleted Work for which the Bidder is committed by Agreement, which in the judgment of the City, might hinder or prevent the prompt completion of Work under this Agreement if awarded to such Bidder; and
- h. Being in arrears on any of his existing or prior contracts with the City or in litigation which the City thereon or having defaulted on a previous contract with the City.

9. REJECTION OF BIDS

Bids may be considered irregular and may be rejected if they show omissions, alterations of forms, addition not called for, conditions limitations, unauthorized alternate Bids or other irregularities of any kind. The City reserves the right to waive any informalities or irregularities of Bids.

10. FAILURE TO PERFORM

If for any reason the Contractor fails to perform any of the Work required by the Specifications, or if the Work performed is not as specified, the City reserves the absolute right to have such Work performed by other persons and deduct the cost thereof from the Bid price of the company under Agreement.

11. PRICING SHEET (REQUIRED SUBMITTAL)

Unit prices shall include an appropriate allocation of overhead, other indirect costs and profits so that the summation of unit price extensions and lump sum items represents the total Bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of the Work affecting the item to which such amounts relates. Award will be based on the total fixed unit cost for all items aggregated.

12. BID GUARANTEE (REQUIRED SUBMITTAL)

Bidders are required to furnish a Bid Guarantee in the amount of five percent (5%) of the total Bid amount. Bidders offering alternative Bids shall provide a guaranty for the largest total Bid amount. At the option of the Bidder, the guaranty may be a certified check payable to the order of the City or a bid bond in the form attached. The bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such bid bond shall be within the maximum amount specified for such company in Circular 570. No Bid shall be considered unless it is accompanied by the required guaranty. Bid Guarantee shall insure the execution of the Agreement and the furnishing of the performance and payment bonds and insurance by the successful Bidder as required by the Agreement Documents. The Bid Guarantee of the Bidders submitting the five (5) lowest total Bid amounts for the Agreement will be retained either until the successful Bidder has signed the Agreement and furnished performance and payment bonds and certificates of insurance, or until the ninetieth (90th) calendar day after the Bid opening date, whichever is sooner. Other Bid Guarantees will be returned within ten (10) calendar days after the Bid opening date. Bid Guarantees being held pending the signing of the Agreement and furnishing other documents will be returned within three (3) calendar days thereafter. Each Bidder agrees that if it is awarded the Agreement and fails within the time stipulated to execute the Agreement and to furnish the other documents required, the City will retain the Bid Guarantee as liquidated damages and not as a penalty.

Attorneys-in-fact who sign bid bonds must file with the bond a certified and effectively dated copy of their power of attorney.

13. STATEMENT OF BIDDER'S QUALIFICATIONS (REQUIRED SUBMITTAL)

The statement of Bidder's Qualifications must be filled out completely, signed by the Bidder, and notarized.

The City shall have the right to require such additional information, as it deems necessary to evaluate the ability of the Bidder to successfully perform the Work.

The City reserves the right to reject any Bidder who does not satisfy the City as to his ability to successfully perform the Work, previous pre-qualification notwithstanding.

The cause for rejection shall include:

- a. Non-compliance of the Bidder with the requirements of an equal employment opportunity in contracting program as may be prescribed by ordinance;
- b. Non-compliance by the Bidder with the requirements of a minority and female business enterprise participation program as may be prescribed;
- c. Inadequate quality, availability and adaptability of the supplies or services to the particular use required; or
- d. Unacceptable number and scope of conditions attached to the Bid by the Bidder, if any.

14. AFFIDAVITS (REQUIRED SUBMITTAL)

The affidavits must be filled in completely, signed by the Bidder, and notarized.

Violation of the statements set forth in the affidavits may be grounds for rejection of Bid, or termination of Agreement by the City, as appropriate, as well as other appropriate remedies as provided by local, state, and federal statutes.

15. EQUAL BUSINESS OPPORTUNITY PROGRAM (REQUIRED SUBMITTAL)

The Bidder shall complete the Equal Business Opportunity (“EBO”) Program documents in accordance with the instructions included in APPENDIX A, REQUIREMENTS OF THE OFFICE OF CONTRACT COMPLIANCE, and shall properly execute the documents.

A determination by the City that misstatements have been made by the Bidder in this document shall cause rejection of Bid or termination of Agreement, as appropriate and shall be grounds for other remedies available under City ordinances, and state or federal statutes.

16. AUTHORIZATION TO TRANSACT BUSINESS (REQUIRED SUBMITTAL)

If the Contractor is a corporation or corporations combined to form a joint venture, the corporation or members of the joint venture team, prior to Agreement execution, must submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

17. BUSINESS NON-DISCRIMINATION POLICY

The City prefers to do business with firms or institutions that include representation of minorities and women at all levels.

18. EQUAL EMPLOYMENT OPPORTUNITY ("EEO") IN PURCHASING AND CONTRACTING

To be eligible for award of this Agreement, the Bidder must certify and fully comply with the requirements, terms, and conditions of the section on EEO.

19. CONTRACT EMPLOYMENT REPORT

Upon award of an Agreement with the City, the successful Bidder must submit a Contract Employment Report ("CER") and supplemental information as required to comply with the paragraph, "Monitoring of EEO Policy, Requirements of the Office of Contract Compliance," page EBO-2.

20. FIRST SOURCE JOBS POLICY EMPLOYMENT AGREEMENT (REQUIRED SUBMITTAL LOCATED IN APPENDIX A)

The Bidder shall acknowledge and implement the First Source Jobs Policy.

21. BID FORM; BID SCHEDULE; BID DATA; CHECKLIST (REQUIRED SUBMITTAL)

The Bidder must complete and execute these sections of the Bidding documents.

22. WAGE RATES OF CITY OF ATLANTA FUNDED CONSTRUCTION PROJECTS

All wage rates paid on this Agreement shall not be less than the minimum wage rates included in Exhibit F.

23. PRE-BID INSPECTION

Prior to submission of a Bid, the Bidder shall have made a thorough examination of the Work Site. The Bidder shall become informed as to the nature of the proposed construction, the kind of facilities required to carry out the construction, labor conditions, and all other matters that may affect the cost and time of completion of the Work upon which it bids.

The Bidder shall make itself familiar with all of the Agreement documents and other instructions before submitting its Bid, in order that no misunderstanding shall exist in regard to the nature and character of the Work to be done. No allowance shall be made for any claims that the Bid is based on incomplete information as to the nature and character of the site or the Work involved.

The Contractor, by execution of the Agreement, shall in no way be relieved of any obligation under it due to its failure to receive or examine any form or legal instrument or to visit the site and acquaint itself with the conditions there existing, and the City shall be

justified in rejecting any claims based on facts regarding that which the Contractor should have known as a result thereof.

24. ADDENDA AND INTERPRETATIONS

All questions by prospective Bidders as to the interpretations of the Bidding Documents must be submitted in writing to: Ms. Mimie L. Woods, Contracting Officer, CPPB City of Atlanta, Department of Procurement, 55 Trinity Avenue, S.W. Suite 1790, Atlanta, Georgia 30303, or faxed to (404) 658-7705 or emailed to mwoods@atlantaga.gov, and **must be received by June 1, 2012.** Every interpretation made to a Bidder will be in the form of an addendum to the Bidding Documents, and when issued, will be on file in the Department of Procurement. In addition, all addenda will be mailed to each person holding Bidding Documents, but it shall be the Bidder's responsibility to make inquiry as to the addenda issued. All such addenda shall become part of the Agreement and all Bidders shall be bound by such addenda, whether or not received by the Bidders.

The City shall not be bound by any information, explanation, clarification, or any interpretation, oral or written, by whomsoever made, that is not incorporated into an addendum to the Bidding Documents. The City reserves the right, at its sole discretion, to respond to any addendum question; and no response shall be made to inquiries received later than the date listed in the above-referenced paragraph.

25. PRE-BID CONFERENCE

A Pre-bid Conference will be held on **Tuesday, May 29th, at 11:00 a.m.,** at the DOP's Conference Room in Suite 1900. At that time, the general requirements of the project will be discussed. Any additional questions raised by Bidders will be discussed.

General requirements of the project will be discussed at the Pre-bid Conference. Also discussed will be questions regarding preparation and submission of Bids and general contractual requirements. Bidders will be allowed to ask questions. **Oral answers to questions during the Pre-bid Conference will not be authoritative.**

It should be emphasized, however, that nothing stated or discussed during the course of this conference shall be considered to modify, alter or change the requirements of the Bidding Documents, unless it shall be subsequently incorporated into an addendum to the Bidding Documents.

26. TIME FOR RECEIVING BIDS

Sealed Bids for this project will be received by designated staff of the Department of Procurement, Suite 1900, City Hall South, 55 Trinity Avenue, S.W., Atlanta, GA 30303, no later than 1:59 p.m. EST, (as verified by the Bureau of National Standards) on **Wednesday, June 13, 2012. ABSOLUTELY NO BIDS WILL BE RECEIVED AFTER 1:59 P.M. ON THE RESPECTIVE DATE.** All Bids received by the time and date set forth will be opened publicly and read at **2:00 p.m.** in the Department of Procurement Bid Conference Room, Suite 1900, at the aforementioned address.

Bids received prior to the advertised hour of opening will be kept secured and sealed. The contracting officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered, except that when a Bid arrives by mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the City that the non-arrival on time was due solely to delay in the mail for which the Bidder was not responsible, such Bid will be received and considered.

27. BID MODIFICATION AND WITHDRAWAL

Bids may be modified after they have been submitted, but only before the Bid opening date and time. Modifications must be signed by the Bidder and must be received by the City no later than the Bid opening time and date. Modifications should not reveal the total Bid amount, but should identify the addition and subtraction or other modification in a manner in which the prices will not be known by the City until the sealed Bid is opened.

Bids may be withdrawn after they have been submitted, but only before the Bid opening date and time. Withdrawn bids may be resubmitted, but only in the manner in which the Bid was originally submitted. Withdrawals must be signed as stipulated above for modification. Bids may not be withdrawn between the Bid opening time and date and the sixtieth (60th) calendar day thereafter, except as may be agreed upon by a written agreement between the Bidder and the City.

28. BID EVALUATION

- a. Each Bid timely received and in the City's hands at the time set forth for the Bid opening shall constitute an offer to perform the Agreement on the terms and conditions thereof, in strict accordance with the Agreement documents, and all other requirements, all for the Bid total. For good cause and valuable consideration, the sufficiency of which is acknowledged by submittal of a Bid, each Bidder promises and agrees that its Bid shall be irrevocable for a period of sixty (60) calendar days after the Bid opening and will not be withdrawn or modified during that time. The City may accept any Bid by giving the Bidder Written Notice of acceptance during that time. If necessary, the period of time specified may be extended by written agreement between the City and the Bidder or Bidders concerned.
- b. After the Bids have been opened and before any award is made, the City will evaluate the Bid process, the Bid total, the supplements to the Bid form, Bidder's experience, financial data, Local Preference Program (if applicable), proposed Subcontractors and equipment manufacturers and other data relating to Bidders' responsibility and qualifications to perform the Agreement satisfactorily.
- c. All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the City. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern.

- d. Bidder may be required to submit, in writing, the addresses of any proposed Subcontractors or Equipment manufacturers listed on the Bid, and to submit other material information relative to proposed Subcontractors or Equipment manufacturers. The City reserves the right to disapprove any proposed Subcontractor or Equipment manufacturers whose technical or financial ability or resources or whose experience are deemed inadequate.
- e. The City reserves the right to reject any Bid the prices of which appear to be unbalanced, and to reject any or all Bids, or parts thereof, if it determines, in its sole discretion, that such rejection is in the best interest of the City. Where only a single responsible and responsive Bid is received, the City may in its sole discretion, elect to conduct a price or cost analysis of the Bid. Such Bidder shall cooperate with such analysis and provide such supplemental information as may be required. The determination whether to enter into an Agreement with such sole Bidder shall be solely within the City's discretion and not dependent upon performance of a price or cost analysis.
- f. Bids will be evaluated on the basis of determining the lowest Bid Total of a Bidder, not including alternates, whose Bid is responsive to the Invitation to Bid and who is determined to be technically, financially and otherwise responsible to perform the Agreement satisfactorily, and to meet all other requirements of the Bidding Documents relating thereto. Any Bid may be rejected if it is determined by the City to be non-responsive, provided, however, that the City reserves the right to waive any irregularities or technicalities which it determines, within its sole discretion, to be minor in nature and in the interest of the public. Furthermore, any Bid may be rejected if it is determined by the City, in its sole discretion, that the bidder is not capable of performing the Agreement satisfactorily based upon review of its experience and technical and financial capabilities, or the failure of such bidder to provide information requested relating to such determination. Additionally, the City reserves the right to disqualify Bids, before and after the bid opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of any Bidder(s).
- g. The City intends to award the Agreement at the earliest practicable date to the lowest responsive, responsible Bidder(s), provided that the Bid is within the funds available for the project. The City reserves the right to award the Agreement to multiple Bidders. In addition, the City reserves the right to reject any and/or all Bids if it determines, in its sole discretion, that the public interest will be best served by doing so.
- h. A Pre-award Conference may be conducted with the apparent low Bidder(s) to review general requirements of the Bidding Documents.

29. AWARD CRITERIA

Award will be made after evaluating the prices, responsiveness and responsibility of each Bidder.

A. The responsiveness of a Bidder is determined by the following:

1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
2. The completeness of all material, documents and/or information required by the City; and
3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.

B. The responsibility of a Bidder is determined by the following:

1. The ability, capacity and skill of the Bidder to perform the Agreement or provide the Work required;
2. The capability of the Bidder to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the Bidders;
4. The quality of performance of previous contracts or work;
5. The previous existing compliance by the Bidder with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Bidder to perform Agreement or provide the Work;
7. The compliance of the Bidder with the requirements of Division II, Equal Employment Opportunity (EEO), and Division 12, Minority and Female Business Enterprises, of the City's Department of Procurement;
8. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
9. The successful Bidder shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

30. SURETY BONDS

Regarding submission of surety bonds prior to or subsequent to the Bid submission, the following requirements pertain:

- a. Any surety bond submitted in accordance with the Bid or Agreement requirements must be issued by a corporate surety company satisfactory to the City and authorized to act as such in the State of Georgia;
- b. Such bonds shall conform to the forms provided with the Bid Documents and be completed in accordance with the instructions thereon; and

- c. In accordance with Georgia law, and upon award of the Agreement, separate performance and payment bonds shall be required of the successful Bidder, each in an amount not less than the total amount payable under the Agreement. The performance bond shall remain in effect for one (1) year after final acceptance of the Work or the guaranty period under the Agreement, whichever is the larger.

The payment bond shall remain in effect for the period required under Georgia law for the payment bonds on public construction agreements. Reference is made to the bond forms and the Agreement Documents for additional particulars of the terms required in the bonds. In the case of any inconsistency between the Bond Forms and Georgia law, the law shall control. Finally, alterations, extension of the time allowed for performance, extra and additional Work, and other changes authorized under the Agreement may be made without notice to or consent of the surety or sureties.

31. POWER OF ATTORNEY

Attorneys-in-fact who sign agreement bonds must file with each bond a certified copy of their power of attorney with the appropriate effective date.

32. INSURANCE REQUIREMENTS

The Contractor shall procure and maintain during the life of this Agreement, Workmen's Compensation, Public Liability, Property Damage, Automobile Liability insurance and any other insurance necessary to satisfy the requirements of the Agreement Documents.

33. LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Agreement throughout, to the extent that such requirements do not conflict with federal laws or regulations, and they will be deemed to be included in the Agreement the same as though therein written out in full.

Bidder's attention is directed to the following laws and regulations:

- a. Wages under this Agreement must not be less than the minimum wage rates specified for Atlanta-funded projects as set forth in these documents;
- b. Applicable provisions of the Occupational Safety and Health Act ("OSHA") must be observed during Work under this Agreement; and
- c. Appendix A – Requirements of the Office of Contract Compliance.

34. AGREEMENT TERMS

The terms of the Agreement shall be for Six (6) months, with the option to extend for six (6) additional months at the sole discretion of the City.

35. LIQUIDATED DAMAGES

The performance of the Work under Agreement within the specified time is essential to the City's economic interests. The attention of potential Bidders is directed to the provisions of the Agreement Documents, which establish the basis for liquidated damages to be paid to the City in the event that the Work is not completed on schedule.

36. EXECUTION OF AGREEMENT

Subsequent to the award and within fifteen (15) days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the City seven (7) copies of the City-Contractor Agreement as included in the Agreement Documents and provide performance and payment bonds and insurance certificates. The failure of the successful Bidder to execute the City-Contractor Agreement and to supply the required bonds within fifteen (15) days after the prescribed forms are presented for signature, or within such extended period as the City may grant, based upon reasons determined sufficient by the City, shall constitute a default, and the Bidder shall forfeit the Bid Guarantee and the City may either award the Agreement to the next lowest responsive Bidder or re-advertise for Bids, and may proceed against the bid bond of the defaulted Bidder. If a more favorable Bid is received by re-advertising, the defaulting Bidder shall have no claim against the City for a refund.

37. PRE-CONSTRUCTION CONFERENCE

A pre-construction conference may be held with the successful Bidder and all known Subcontractors at a time and place set by the City.

38. SUBSTITUTIONS

Whenever a Material, article, or piece of Equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, and any Material, article, or Equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the Material, or Equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

Whenever the design is based on a specific product of a particular manufacturer or manufacturers, the manufacturer(s) will be shown on the Drawings and/or listed in the Specifications. Any item other than those so designated shall be considered a substitution.

If the manufacturer is named in the Drawings and/or detailed Specifications as an approved manufacturer, products of that manufacturer meeting all Specification requirements are acceptable.

Approval of any substitution will be made under the following provisions:

A. If the term "OR EQUAL" follows the names of approved manufacturers, then other manufacturers desiring approval may submit the product to the Engineer for approval during the bidding phase. The manufacturer should include the following items in this pre-submittal:

- (1) Descriptive literature, including information on Materials used, minimum design standards features, manufacturing processes and facilities, and similar information, which will indicate experience and expertise in the manufacture of the product being evaluated;
- (2) Performance Specifications applicable to the manufacturer's standard design, which indicate the level of performance to be expected from the product;
- (3) A complete set of submittal Drawings of similar Equipment that has been completed and placed into operation;
- (4) A list of existing installations of equipment similar in type and size;
- (5) Evidence of technical ability of the manufacturer to design and manufacture Equipment and systems meeting project requirements. Evidence submitted shall include, at a minimum, descriptions of engineering and manufacturing staff capabilities;
- (6) Information required to satisfy specified experience requirements or a copy of the bond to be submitted in lieu of experience;
- (7) A complete description of field service capabilities, including the location of field service facilities which would serve the proposed facility and the number and qualifications of personnel working from that location;
- (8) A complete list of all requirements of the Drawings and Specifications with which the manufacturer cannot conform, including reasons why alternate features are considered equivalent; and
- (9) All other information necessary to fully evaluate the product for consideration.

B. This pre-submittal shall reach the Engineer no later than three (3) weeks prior to the Bid date. Manufacturers will be advised of approval or rejection in writing no later than fourteen (14) days prior to the Bid date. Rejected submittals may be supplemented with additional information and resubmitted no later than one (1) week prior to the bid date. Manufacturers

making supplementary submittals will be advised of approval or rejection in writing no later than three (3) days prior to the bid date.

NOTE: Bids based on Equipment, which has not received the approval of the Engineer, will render the Bidder as non-responsive and cause rejection of the Bid.

If the term "EQUAL TO" precedes the names of approved manufacturers in the Specifications, the Contractor may, after receiving the Notice to Proceed, submit Shop Drawings on the substitute product for the approval of the Engineer in accordance with **General Condition 28**.

Any Bidder intending to furnish substitute products is cautioned to verify that the item being furnished will perform the same functions and have the same capabilities as the item specified. The Bidder shall include in his bid the cost of accessory items, which may be required by the substitute product and any architectural, structural, mechanical, piping, electrical or other modifications required to accommodate the substitution.

Approval of the Engineer is dependent on his determination that the product offered is essentially equal in function, performance, quality of manufacture, ease of maintenance, reliability, service life and other criteria to that on which the design is based, and will require no major modifications to structures, electrical systems, control systems, or piping systems.

39. **This Invitation to Bid is subject to the Georgia Security & Immigration Compliance Act listed within Exhibit A, Required Submittals.** Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009, bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security. A completed affidavit available at www.atlantaga.gov must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. **Under state law, the City cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders/proponents intending to do business with the City are responsible for independently apprising themselves and complying with the requirements of that law and its effect on City procurements and their participation in those procurements.**

For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>

40. **This Invitation to Bid requires completion of the S.A.V.E. Affidavit listed within Exhibit A, Required Submittals.**

****END OF INSTRUCTIONS TO BIDDERS****

PART II
GENERAL CONDITIONS

FC-5965, ADA Parking Lot Spatial Improvements at Various Locations

PART II

GENERAL CONDITIONS.

GC-1 AGREEMENT AND AGREEMENT DOCUMENTS

The General Conditions, Special Conditions, Technical Provisions, Drawings, Changes, and all other parts of the Agreement Documents are complementary, and a requirement occurring in one shall be as binding as though occurring in all. The parts of the Agreement are complementary and describe and provide for completion of the Work. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Agreement Documents and in no way affect, and shall not be considered in the interpretation of the provisions to which they refer.

The physical conditions indicated in the Agreement Documents are the result of site investigations by borings and testing at the locations shown.

Execution of the Agreement by the Contractor is a representation that the Contractor has visited the Site, become familiar with the local conditions under which the Work is to be performed, and has correlated personal observations with the requirements of the Agreement Documents.

The intent of the Agreement Documents is to include all items necessary for the proper execution and completion of the Work. Work not specifically covered in the Agreement Documents shall be required if it is consistent therewith and reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Agreement Documents in accordance with such recognized meanings.

Without limiting the duty of the Contractor regarding review of the Agreement Documents, in the event of a conflict, error or discrepancy within the Agreement Documents, the Documents shall be given precedence in the following order:

- Change Orders;
- Addenda;
- Bid Form;
- City-Contractor Agreement;
- Special Conditions
- General Conditions;
- Specifications; and
- Plans

Detail Drawings shall govern over general drawings. Figures or dimensions written on drawings shall govern over scaled distances. The details are not to scale.

In case of discrepancy between small-scale detail and large-scale detail, the large-scale detail shall govern. On any of the Plans where a portion of the Work is drawn out and the remainder is shown in outline, the parts drawn out shall apply also to all other like portions of the Work.

Where the word "similar" occurs on the Plans, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.

The dimensions and descriptions given on the Plans for adjacent work by others are based on the design Drawings. The Contractor shall verify all as-built conditions and information.

GC-2 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

During the progress of the Work, the Engineer may issue additional instructions and Drawings supplemental to those listed in the Special Conditions, showing additional details required for the performance of the Work, and may issue revised Drawings pursuant to Change Orders, or for correction of errors in the Plans. The additional instructions and Drawings thus supplied will become a part of the Agreement Documents. Contractor shall carry out the Work in accordance with the additional instructions and Drawings.

GC-3 DEFINITIONS

The following terms as used in this Agreement are respectively defined, as follows:

Abandonment - Shall mean the permanent termination of the use of, or of service from in or on a facility.

Approved, Directed, Ordered, Or Their Derivatives - Approved, as directed, or ordered by the Engineer or the City, unless otherwise clearly indicated.

Acceptance - The formal written acceptance by the City of the completed Work.

Addenda - Revisions to the Proposal Documents issued by the City prior to opening of the Bid.

Agreement - refers to the executed contract between City and Contracting Entity.

Agreement Documents - The Agreement Documents include the following:

- City-Contractor Agreement;
- Performance Bond;
- Payment Bond;
- Bid Guarantee;

Affidavit;
Appendix A - Requirements of the Office of Contract Compliance;
Appendix B – Insurance Requirements;
Bid;
Bid Schedule;
Bid Data;
General Conditions;
Technical Specifications for the Project; and
Plans for the Project.
Any Addenda thereto or Modification thereof (as defined in the General Conditions).

Agreement Price - The price or prices for the Work or items of Work set forth in the Bid.

Agreement Time - The number of calendar days stated in the Agreement Documents for the Substantial Completion of the Work or Final Completion of the Work, or the achievement of a specific interim milestone, as the context may require.

Amendment – Revision to Contract issued by the City after execution of the formal Contract Agreement.

Application for Payment - The form accepted by the City which is to be used by Contractor in requesting progress payments or final payment and which is to include such supporting documentation as is required in the Agreement Documents.

Bid - The offer or bid of the Bidder submitted in the prescribed manner on the prescribed form setting forth the prices for the Work to be performed together with supplemental information as required by the Agreement Documents.

Bidder - Any person, firm, partnership, corporation or any combination thereof submitting a Bid for the Work.

Bonds - Bid, Performance Bonds, Payment Bonds, and other instruments of security furnished by the Bidder or Contractor and his surety in accordance with the Agreement Documents.

Change - Any change in the Work authorized by the Engineer.

Change Order - A written order to the Contractor, prepared by the Engineer and issued by the City for changes in the Work within the general scope of the Agreement Documents, adjustment of Agreement Prices, extension of Agreement Time, or reservation of determination of a time extension.

City - Shall mean the City of Atlanta, Georgia, and shall include all agencies, establishments or officials of the government of the City.

City-Contractor Agreement - The written agreement for the performance of and payment for the Work, which includes by reference and is a part of the Agreement Documents, executed on behalf of the City and the Contractor.

City's Contractor - Shall mean the legally authorized representative of the City, a private contractor, or other concerned agency performing Work under a direct Agreement with the City.

Construction - Shall mean the actual site preparation, building and all related Work, including facility relocation and adjustments.

Construction Easement/Temporary Easement - Any space or area dedicated to the City or other entity for the purpose of utilities or location of utilities for a specific period of time.

Construction Equipment - Equipment used in the performance of the Work but not incorporated therein.

Contact Person - Contracting Officer designated by the City of Atlanta, Department of Procurement, to submit any questions and suggestions to Ms. Mimie L. Woods, CPPB, Contracting Officer, Department of Procurement, 55 Trinity Avenue, Suite 1900, Atlanta, Georgia 30303.

Contractor - Any firm, partnership, corporation, joint venture, LLC or any combination thereof who enters into a contractual Agreement with the City. This excludes Subcontractors/Sub-consultants. Contractor shall include the union of both the architectural firm and the construction company.

Day - A calendar day of twenty-four (24) hours lasting from midnight one (1) day to midnight the next day.

Department - Shall mean the Department of Parks, Recreation and Cultural Affairs.

Designer - City of Atlanta

Drawings - That part of the Agreement Documents which show the outlines, characteristics and Scope of the Work to be performed. The term is used interchangeably with the word "Plans" and includes Standard Details and Drawings.

Engineer - City of Atlanta or duly authorized representative.

Equipment - Equipment incorporated or to be incorporated in the Work.

Force Account - A method of payment, other than lump sum or unit price, for Work ordered by Change Order and paid for in accordance with force account procedures indicated in "Force Account" Section of the General Conditions.

General Conditions - Requirements pertaining to this Agreement which will be required of the successful Contractors.

General Requirements - Conditions pertaining to this Agreement which will be required of the successful Contractors.

Inspector - The authorized representative of the Engineer assigned to make detailed inspection of any or all portions of the Work or Materials thereof.

Materials - Materials incorporated or to be incorporated in the Work unless otherwise clearly indicated.

Notice of Award - The written notice of the acceptance of the Proposal from the City to a Bidder.

Notice to Proceed ("NTP") - Written communication issued by the City to the Contractor authorizing it to proceed with the Work and establishing the date of commencement of the Agreement time and on which the Contractor shall start to perform his obligations in accordance with the Agreement Documents.

Owner - The City of Atlanta.

Permanent Easement - Any space or area to the City or other entity for the purpose of constructing and/or maintain existing or future utilities.

Plans - That portion of the Agreement Documents describing in drawings, the shape, dimensions and other similar requirements governing the completion of the various portions of the Work, prepared by the Designers and including revisions thereto. The term is used interchangeably with the word "Drawings."

Project - The Project is identified in the City-Contractor Agreement, and is the total construction of which the Work performed under the Agreement Documents may be the whole or a part.

Public Space/Public Right-of-Way - Shall mean the area between private property lines under the jurisdiction of the City, county, state or federal government, including, but not limited to, an alley, roadway, median, sidewalk, public way, or any combination thereof.

Replacement Facility - Shall mean that facility, meeting the Department's current standards, which will be constructed or provided, as a consequence of the rearrangement of an existing facility or portion thereof.

Resident Engineer - The City's Engineer who is assigned to the Project Site or any part thereof.

Responsible Bidder - means any person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which will ensure good faith performance.

Responsive Bidder - means a person who has submitted a bid or offer which conforms in all material respect to the invitation for bids or request for proposals. A Bid which is accurate and complete, with respect to Bid Schedules and information submitted relative to the technical qualifications, financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Non-Responsive Bidder - would be the opposite of above-referenced definition.

Scope of Work - See "Work."

Sidewalk Area - Shall mean that portion of a street between the curb lines and the adjacent property lines intended primarily for the use of pedestrians whether paved or in use.

Site of the Work - The areas required for the performance of the Work.

Special Conditions - General Requirements which are unique to a particular Agreement and which supplement, modify or delete items covered in General Conditions.

Specifications - That portion of the Agreement Documents describing in words the technical requirements governing the completion of the various portions of the Work.

Standards - Shall mean those current Standards of Engineering analysis and design, including installation and Material Specifications, which the City utilizes in the design and construction of its own projects.

State - The State of Georgia.

Subcontractor - An individual, firm, corporation or any combination thereof having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site. Subcontractor shall not mean Supplier.

Substantial Completion - The date certified by the Engineer when all or a part of the Work, identified in the Engineer's certification, is sufficiently completed in accordance with the requirements of the Agreement Documents so that the identified portion of the Work can be utilized for the purposes for which it is intended.

Supplier - Any individual, firm, or corporation who supplies material or equipment for the Work (including that fabricated to a special design) but who does not perform labor at the Site.

Temporary Facility - Shall mean a facility constructed for whatever purpose, and not intended to be permanent.

Utility - Shall mean and include all public, private, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, heat, gas, oil, crude products, water, steam, waste, storm water, and other similar commodities, such as

public owned fire and police signal systems, which directly or indirectly serve the public or any part thereof.

Work - All the services specified, indicated, shown, or contemplated by the Agreement Documents, and furnishing by the Contractor of all Materials, Equipment, labor, methods, processes, construction and manufacturing materials and equipment, tools, plants, supplies, power, water, transportation and other things necessary to complete such services in accordance with the Agreement Documents.

Working Days - Monday, Tuesday, Wednesday, Thursday, and Friday.

Written Notice - A written statement transmitted from one party to an authorized representative of another party in accordance with Section GC-16.

GC-4 APPLICABLE CODES, SPECIFICATIONS, AND STANDARDS

GC-4.1 General:

All codes, Specifications, and standards referred to in the Agreement Documents shall mean, and are intended to be, the latest editions, amendment, and revisions of such reference standard in effect as of the date of the Invitation to Bid for this Agreement.

GC-4.2 Standards:

Reference to a technical society, institution, association, or governmental authority, or pronoun in place of them, is made in the Agreement Documents in accordance with the following abbreviations:

ANSI	American National Standards Institute;
ASTM	American Society for Testing and Materials;
AWS	American Welding Society State;
AASHTO	American Association of State Highway and Transportation Officials;
ACI	American Concrete Institute;
AFBMA	Anti-Friction Bearing Manufacturer's Association;
AI	Asphalt Institute;
AISI	American Iron and Steel Institute;
AISC	American Institute of Steel Construction;
AMCA	Air Moving and Conditioning Association;
API	American Petroleum Institute;
ASME	American Society of Mechanical Engineers;
ASTM	American Society for Testing and Materials;
AWG	American (Brown and Sharpe) Wire Gauge;
AWS	American Welding Society;
AWWA	American Water Works Association;

CRSI	Concrete Reinforcing Steel Institute;
DOT	Georgia Department of Transportation (“ GDOT ”);
EPA	Environmental Protection Agency (Federal);
EPD	Environmental Protection Division (Georgia State);
MARTA	Metropolitan Atlanta Rapid Transit Authority;
NACE	National Association of Civil Engineers;
NFPA	National Fire Protection Association;
NSF	National Sanitary Foundation;
OSHA	Occupational Safety and Health Administration; and
UL	Underwriter’s Laboratories Incorporated.

GC-5 ADEQUACY OF DESIGN

Before placing its Bid to the City, and continuously after the execution of the Agreement, the Contractor shall carefully study and compare the Agreement Documents and shall at once report to the Engineer, any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, regulation, or order of any public authority bearing on the performance of the Work. By submitting its Bid for the Agreement and the Work under it, the Contractor agrees that the Agreement Documents, along with any supplementary written instructions issued by or through the Engineer that have become a part of the Agreement Documents, appear accurate, consistent, and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency or omission, and has promptly stopped the affected Work until instructed, and has otherwise followed the instructions of the Engineer, the Contractor shall not be liable to the City, for any damage resulting from any such errors, inconsistencies or omissions in the Agreement Documents. The Contractor shall perform no portion of the Work at any time without Agreement Documents or, where required, approved shop Drawings, product data, or samples for such portion of the Work.

No claims shall be made by the Contractor based on claims of defects, errors, omissions, ambiguities or inconsistencies in the Agreement Documents which were reasonably discoverable by a review of the Agreement Documents and correlation thereof with the actual conditions at the Project site. No observation of the Engineer or

City, and no inspections, tests or approval shall relieve the Contractor from his obligation to perform the Work in strict conformity with the Agreement Documents.

GC-6 CITY OF ATLANTA ORDINANCES

The Contractor will be bound by the provisions of all City of Atlanta Ordinances. It is the Contractor's responsibility to be aware of and adhere to all existing or future ordinances which are in effect during the performance of the Agreement.

GC-7 PERMITS AND REGULATIONS

All applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Agreement throughout, to the extent that such requirements do not conflict with federal laws or regulations. All Work performed within the right of way of the GDOT shall be in accordance with GDOT regulations, policies, and procedures.

Contractor shall be solely responsible for securing all permits for the Work.

The Contractor must still apply for and secure said permits and schedule inspections. The Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified.

The Contractor agrees to protect and indemnify and hold harmless the City, its offices, agents and employees, the Designer and the Engineer against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order, or decree affecting the conduct of the Work whether by himself or by his agents or employees.

If any permit, license or certificate expires or is revoked, terminated or suspended as a result of any action on the part of the Contractor, it shall neither be entitled to any additional compensation, nor to an extension of Agreement Time.

GC-8 TAXES

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes as well as any other taxes or duties on the Material, Equipment and labor for the Work or portions thereof provided by the Contractor which are legally enacted by any municipal, county, federal or state authority or department or agency thereof at the time Bids are received, whether or not yet effective.

All records maintained by the Contractor pertaining to such taxes and levies and payment thereof shall be made available to the City at reasonable times for inspection, audit and copying.

GC-9 ARREARS TO OFFSET DEBT AGAINST CITY

No money shall be paid by the City upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation who is in arrears to the City for taxes; and the City shall be entitled to counterclaim and offset any such debt, claim, demand or account in the amount of taxes so in arrears, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due, shall affect the right of the City to so offset the said taxes against the same.

GC-10 LIENS

The Contractor will furnish the City with evidence, satisfactory to the City that all persons who have done Work or furnished materials in performance of this Agreement have been fully paid,

before he shall demand final payment due or unpaid under this Agreement. In case such evidence is not furnished an amount necessary to meet the lawful claims of the persons, aforesaid may be retained from any monies due or that may become due the said Contractor under this Agreement until the lawful claims aforesaid shall be fully discharged or satisfactorily secured, and it is understood and agreed that the City assumes no obligation nor in any way undertakes to pay such lawful claim out of any funds due or that may become due the said Contractor, out of its own funds.

GC-11 ASSIGNMENTS

The Contractor shall retain personal control and shall give personal attention to the fulfillment of this Agreement. The Contractor shall not assign the whole or any part of this Agreement or any monies due or to become due hereunder without written consent of the City. In case the Contractor assigns all or any part of any monies due or to become due under this Agreement, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement.

GC-12 PATENTS AND ROYALTIES

The Contractor shall indemnify and hold harmless the City and its officers, agents, servants, and employees from liability or all claims of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Agreement, including its use by the City, unless otherwise specifically stipulated in the Agreement Documents.

If the Contractor uses any design, device or Materials covered by letters, trademarks, patent or copyright, he shall provide for such use by suitable agreement between the City and the holder of such design, device or Material. It is mutually agreed and understood that, without exception, the Agreement Price shall include all royalties or costs arising from the use of such design, device, or Materials in any way involved in the Work. The Contractor or his sureties or both shall indemnify and hold harmless the City, its officers and employees from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or Materials or any trademark or copyright in connection with Work agreed to be performed under this Agreement and the Contractor shall indemnify the City for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work.

GC-13 OUT-OF-STATE CONTRACTORS

If the lowest responsive Bidder is a foreign corporation, partnership, or sole proprietorship, the Bidder hereby irrevocably appoints the Secretary of State of Georgia as its agent for services of all legal process for the purpose of this Agreement only, and shall obtain all required certificates and licenses required by the Georgia Law.

GC-14 CONTRACTOR'S OBLIGATIONS

A. Supervision and Construction Procedures

1. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures; and shall coordinate all portions of the Work under the Agreement, subject to overall coordination of the Engineer. All Work under the Agreement shall be performed in a skillful and workmanlike manner.
2. The Contractor shall be responsible to the City for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other persons performing any of the Work under a contract with the Contractor.
3. The Contractor shall not be relieved from the Contractor's obligations to perform the Work in accordance with the Agreement Documents by the activities or duties of the Engineer in the administration of the Agreement, or by inspections, tests or approvals required or performed under Paragraphs GC-30 or GC-36 by persons other than the Contractor.

B. Labor and Materials

1. Unless otherwise provided in the Agreement Documents, the Contractor shall provide and pay for all labor, Materials, Equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.
2. The Contractor shall, at all times, enforce strict discipline and good order among the Contractor's employees and Subcontractors and shall not employ on the Work any Subcontractor, unfit person or anyone not skilled in the task assigned them. The City may, by Written Notice, require the Contractor to remove from the Work any Subcontractor or employee the City deems incompetent, careless, or otherwise objectionable.
3. All Work at the site shall be performed during regular working hours, except upon the City's written consent given after prior Written Notice.

C. Contractor's Construction Schedule

Contractor shall comply with all scheduling requirements set forth in the Bidding Document.

D. Conditions Affecting the Work

The Contractor shall be responsible for having taken all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including but not limited to conditions relating to transportation, handling, storage of Materials, availability of labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the City relating to this Project which may effect the Work of the Contractor, applicable provisions of law; and the character and availability of equipment and facilities needed prior to and during the prosecution of the Work, shall not relieve the Contractor of his responsibilities under the Agreement Documents and shall not constitute a basis for an equitable adjustment under any circumstances. The City assumes no responsibility for any understanding or representations concerning conditions made by any of his officers, agents, or employees prior to the execution of the Agreement, unless such understanding or representations are expressly stated in the Agreement Documents.

GC-15 RIGHT OF ENTRY

The City reserves the right to enter the Site of the Work herein contracted for, by such agent or agents as they may elect, for the purpose of inspecting the Work, or for the purpose of installing such collateral Work as the City may desire. The Contractor shall cooperate and coordinate with other contractors prosecuting other phases of the construction. Furthermore, if deemed necessary by the Engineer, the Contractor will incorporate critical access issues of other City contractors directly into the daily Work schedule, such that no phase of the Project(s) are delayed or impacted.

GC-16 NOTICES

Except as otherwise expressly provided in the Specifications, any notice, order, instruction, claim, or other written communication required or permitted to be given under this Agreement shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, or to the City, as the case may be, which delivery may be accomplished by in person hand delivery, or via bona fide overnight express service. Service by facsimile transmission does not constitute notice in accordance with this Agreement.

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, addressed to the Contractor, the City at his official address, for use under this Agreement, as the case may be.

For purposes hereof, the address of Contractor shall be the business address given in his Bid, and the address of the City shall be as designated in the notice to begin the Work. Either party may change his address at any time by Written Notice to the other of the change.

GC-17 SAFETY PRECAUTIONS AND PROGRAMS

The City, the Engineer, or their agents, employees or representatives are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for the safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

GC-18 SAFETY OF PERSONS AND PROPERTY

- A. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
 1. All employees on the Work and all other persons who may be affected thereby;
 2. All the Work and all Materials and Equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of the Contractor's Subcontractors;
 3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
 4. The Work of the City or other separate contractors.
- B. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- C. The Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

- D. When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- E. The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses GC-18 A.2 and 18 A.3 caused in whole or in part by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and for which the Contractor is responsible under Clauses GC-18 A.2 and 18 A.3, except damage or loss attributable to the acts or omissions of the City, the Engineer or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Insurance Section of the General Conditions.
- F. The Contractor shall employ a project safety coordinator who shall devote full time toward accident prevention during construction. The qualifications of the project safety coordinator shall be submitted to the City for approval prior to assignment to the Work and shall include:
1. Five (5) years of construction loss control/safety experience in heavy construction;
 2. Registered Professional Engineer in the State of Georgia;
 3. Certified safety professional;

Also advisable:

1. Professional Member of the American Society of Safety Engineers (ASSE);
2. Associate in Risk Management (ARM); and
3. Associate in Loss Control Management (ALCM).

- G. The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

GC-18.1 Emergencies

In any emergency affecting the safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency Work, shall be determined as provided in Changes Orders in the General Conditions.

GC-18.2 Miscellaneous

- A. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 25-9-1 through § 25-9-12, Blasting or Excavating

Near Underground Gas Pipes and Facilities, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor agrees and acknowledges that any failure on his part to adhere to said laws, rules and regulations shall not only be a violation of law but shall also be a breach of Agreement and specific violation of the provisions of this Section GC-17 which pertains to safety precautions.

- B. The Contractor acknowledges that he is fully aware of the contents and requirements of Official Code of Georgia Annotated § 46-3-30 through § 46-3-39, Safeguards Against Contact with High Voltage Lines, any amendments thereto and rules and regulations issued pursuant thereto, and the Contractor shall fully comply therewith. The Contractor also confirms that representatives of the Contractor have visited the site of the Work and have taken into consideration the location of all electric power lines on and adjacent to all areas onto which the Agreement Documents require or permit the Contractor to Work, to store materials or to stage operations, and that the Contractor has obtained from the owner or owners of the aforesaid electric power lines advice in writing as to the amount of voltage carried by the aforesaid lines. The Contractor agrees that any failure on its part to adhere to said laws, rules and regulations shall not only be a violation of the law but shall also be a breach of Agreement and specific violation of the provisions under Section GC-17 above, which pertains to safety precautions.
- C. The Contractor acknowledges and agrees that he is the person responsible under the law and that he is the person employing or directing others to perform labor within the meaning of Official Code of Georgia Annotated § 34-1-1, Labor and Industrial Relations. He acknowledges and agrees likewise that he will comply with said law.
- D. The Contractor shall protect all Work, including but not limited to, excavations and trenches, from rain water, surface water, and backup of drains and sewers. The Contractor shall furnish all labor, pumps, shoring, enclosures, and Equipment necessary to protect and keep the Work free of water.
- E. The provisions, terms and conditions of this Section GC-18.2, although very specific, are in no way intended to limit the general requirements hereof or the applicability of laws relating to Work conditions, safety or accident prevention and no specific provision or combination of specific provisions in any of said subsections or in any other parts or sections of the Agreement Documents shall be deemed to limit the obligations or responsibility of the Contractor contained in general provisions with respect thereto or in laws, statutes, acts, rules or regulations which are applicable thereto but which are not specifically referred to in any part of the Agreement Documents.

GC-19 USE OF PREMISES AND CLEAN UP

- A. Contractor expressly undertakes at no additional cost to the City:

1. To store his Materials, Supplies and Equipment at the Site of the Work in such orderly fashion and in such locations as approved by the Engineer that will not unduly interfere with the progress of the Work or the Work of any other contractors, or the activities of City personnel.
2. To clean up all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that all times the Site of the Work shall present a neat orderly and workmanlike appearance. No items shall be left or discarded elsewhere on the Site, or any other City sites. Items that are to be discarded shall be removed to approved dump areas.
3. To remove all surplus material, false Work, temporary structures, including foundations thereof, plants any description and debris of every nature resulting from his operations, and to put the Site in a neat, orderly condition before final payment. Such final cleanup Work shall be performed within the time specified for completion of Work, with such exceptions as may be approved in writing by the City. Unless otherwise provided in the Specifications, Contractor shall clean any portion of Work for which a separate time for completion is specified and the Site thereof to the above standards within the specified time, with such exceptions as may be approved in writing by the City.
4. To affect all cutting, fitting or patching of his Work required to make the same to conform to the plans and specifications and except with the consent of the City, not to cut or otherwise alter the Work of any other contractor.

B. Contractor shall, at no additional cost to the City:

1. Coordinate all of the Contractor's operations with, and secure approval from, the City before using any portion of the Site. Contractor shall assume full responsibility for any damage to any such land or area, or to the City or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work.
2. Cause its agents and employees to park their vehicles only at locations directed by the City. Contractor's agents and employees shall clean vehicles leaving the Site so as not to muddy roads in the vicinity of the Site. Vehicles shall be brought to the Site only in connection with necessary Work on the Project. In no event shall vehicles be brought to the Site outside normal working hours unless the City gives specific written permission in advance.

3. In connection with Contractor's operations, provide for the free flow of traffic over roads or streets in or adjacent to the Site. The Contractor shall keep roads and streets free from obstructions of any character that might present a hazard or interference with traffic and in such condition that traffic can be adequately accommodated. When operations in connection with the Work necessitates the closing of traffic lanes, Contractor shall arrange in advance with the City, any adjacent property owners affected, and appropriate local authorities for such closing and shall provide as necessary appropriate barricades, signs, markers, flares and other devices as may be required by the Engineer or the local authorities for traffic guides and public safety.
4. Provide facilities for its use and only at locations approved or directed by the City. Unless otherwise specified in the Agreement Documents, Contractor shall provide all power and lighting necessary for its Work, complying in all cases with local and national electrical codes, OSHA regulations, and any other applicable laws. The City shall direct the point or points to be used for service connection. Contractor shall provide telephone facilities for his own use and only at locations approved or directed by the City.
5. Unless otherwise specifically provided in the Agreement Documents, Contractor shall provide his own temporary facilities, including an office and a watertight, closed area for storage and protection of Materials and Equipment to be used for, or incorporated in, the Work, except as specifically agreed in the Agreement Documents. Contractor's shanties, material storage rooms, field offices and the like will be approved by the City and placed in locations designated by the City. If it becomes necessary during the course of the Work for Contractor to relocate his field operations, it will do so in an expeditious manner and at no additional cost.
6. Contractor shall take measures to control the blowing or spreading of dust, smoke, dirt, mud and refuse from its Work to avoid nuisance and inconvenience to others whether on or off the Site. These measures shall be in compliance with, without being limited to, all applicable laws, and shall be subject to the City's approval. Contractor shall furnish all necessary labor and Materials such as water, approved chemicals, and Equipment.
7. Contractor shall be responsible for the removal or drainage of all water interfering with the proper prosecution of his Work. It shall, at all times, assure such drainage and shall not be a nuisance or inconvenience to the City, other contractors or their Work, or the occupants or users of any other public or private area on or off the Site. This paragraph

supplements, and does not supersede, any drainage or dewatering called for elsewhere in the Agreement Documents.

8. Contractor shall not use permanent installed systems without permission of the City. If such permission is granted prior to completion of the Work, Contractor shall restore all parts of the system used by replacing materials, traps, valves, filters, motors, lamps, and the like to the extent that the City considers them to have been damaged or if their usefulness has been impaired or diminished by their temporary use by Contractor.
9. No part of any surface shall be loaded during construction with more weight than it can safely bear at the time. Should damage occur through violation of this requirement by Contractor, it shall be solely liable for such damage and any consequence.
10. It shall be Contractor's responsibility to receive and unload his Materials and pay all charges therefor, including, without limitation, demurrage or charges for delays in loading. Contractor shall instruct vendors or Suppliers making such deliveries exactly where they shall go. Contractor shall constantly keep the City advised of his Material delivery schedule and shall update it as required by the City so that Materials will be available to complete the Work on time. The Contractor shall schedule Material deliveries so as to interfere as little as possible with anyone else's Work on the Project but within the normal Work hours. Contractor shall require that Materials and Equipment delivered shall be identified with Contractor's name, purchase order, and identification numbers, as required by the Engineer. Contractor shall sign for all Materials delivered and shall be responsible for their safekeeping.

GC-20 PROTECTION OF AGREEMENT WORK

Contractor shall be responsible for:

1. Maintenance and protection of Work until final completion and acceptance, including, but not limited to, the storage of Materials and Equipment, erection of temporary structures and provisions for drainage as necessary to protect Work from injury, damage or loss.
2. Any injury, damage, or loss to Work resulting from the action of the elements or any other cause, irrespective of fault or negligence, excepting only such injury, damage, or loss as is caused solely by the negligence of willful misconduct of the City.

3. Protection of its Work and materials and the Work and materials of his Subcontractors from damage or injury from the weather.
4. Exercising due care to avoid injury or damage to the Work of other contractors on site.

Any portion of Work suffering injury, damage, or loss for which Contractor is responsible under 1, 2, 3 or 4, above, will be considered defective and shall be corrected or replaced without additional cost to City.

GC-21 DEFECTS IN THE WORK AND UNAUTHORIZED WORK

Contractor shall promptly remove from the premises all Work rejected by the City for failure to comply with Agreement Documents, whether incorporated in the construction or not, and Contractor shall promptly replace and re-execute the Work in accordance with Agreement Documents and without expense to City and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal, or replacement. All removal and replacement Work shall be done at Contractor's expense.

Any Work which may be done or Materials ordered by Contractor prior to receipt of Notice to Proceed, incorporation of previously rejected Work, Work done contrary to or regardless of the instruction of the City, extra Work performed without written authority from the City, Work done beyond the limits shown on the Plans, except as herein specified, or any extra Work done without written authority from the City, will be considered as unauthorized and will not be paid for unless accepted in writing by the City. Work so done may be ordered removed or replaced at the Contractor's expense.

If the Contractor defaults or neglects to carry out all or any part of the Work in accordance with the Agreement Documents, and fails within three (3) days after receipt of Written Notice from the City to commence and continue correction of such default or neglect with diligence and promptness, the City may, after three (3) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the City may have, make good such deficiencies and may further elect to perform and to complete all or any part of Work thereafter through such means as the City may select, including the use of a new contractor. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor, the cost of correcting such deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City on demand.

Minor, inconsequential defects may be waived in writing by the City, but the City's failure or refusal to exercise such authority shall not be subject to claim by Contractor. If a waiver will result in an appreciable saving of costs to Contractor, including costs of Work in place and potential costs of rejection and replacement under this clause, it will be made only upon an equivalent adjustment in compensation pursuant to Clause GC-42. Other defects may be waived

only as expressly authorized by Special Conditions or Technical Provisions which make provision for relief to the City for such waiver.

GC-22 GUARANTEE OF WORK AND MATERIALS

- A. The Contractor warrants to the City and the Engineer that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Agreement Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by any other provision of the Agreement Documents. The Warranties set forth in this paragraph and elsewhere in the Agreement Documents shall survive final acceptance of the Work.
- B. Contractor shall warrant to Owner that all goods or equipment which Contractor is required to purchase under the Agreement and which contain embedded codes, chips, microprocessors, microcontrollers, clock circuits (including integrated circuits), computer operating systems, computer software, custom application programming, or other similar systems/technologies that calculate date or time data shall be Year 2000 Compliant in that they shall correctly and without failure, malfunction, or need for operator intervention, display, calculate, compute, and process date or time data before, during, and beyond December 31, 1999, including leap year.
- C. If within one (1) year after the Date of Final Completion and Final Acceptance of the Work by the City, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Agreement Documents, any of the Work is found to be defective or not in accordance with the Agreement Documents, the Contractor shall correct it promptly after receipt of a Written Notice from the City to do so, unless the City has previously given the Contractor written acceptance of such condition. This obligation shall survive both final payment for the Work or designated portion thereof and termination of the Agreement. The City shall give such notice promptly after discovery of the condition.
- D. Without limiting the responsibility or liability of the Contractor under the Agreement, all warranties given by manufacturers on Materials or Equipment incorporated in the Work are hereby assigned by the Contractor to the City. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the City. The Contractor shall not obtain any Materials or Equipment under warranties, which do not run directly to the benefit of the City, and all such warranties shall be directly enforceable by the City.
- E. The foregoing warranties, and those contained elsewhere in the Agreement Documents or implied by law, shall be deemed cumulative and not alternative or exclusive. No one or more of them shall be deemed to alter or limit any other.

GC-23 TERMINATION OF AGREEMENT

GC-23.1 Bankruptcy or Insolvency

If Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for Contractor or for any of his property, or if he filed a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he refuses or fails to prosecute Work or any separable part thereof, with such diligence as will insure its completion within Agreement Time, or if he fails to complete said Work within said time, or if he disregards laws, ordinances, rules, regulations, directions or orders of any public body having jurisdiction over Work or if he disregards the authority of the City, or if he otherwise violates any provision of Agreement Documents, then City may terminate the Agreement without prejudice to any other right or remedy after giving Contractor a minimum of fifteen (15) days to either undertake the Work or pay the City for doing so.

If the surety does not commence performance thereof within fifteen (15) days from the date of the mailing to such surety of notice of termination, City may take over Work and prosecute the same to completion by contract or by Force Account for the account and the expense of Contractor and Contractor and his surety shall be liable to City for any excess cost incurred thereby, and in such event City may take possession of and utilize in completing Work, such materials, appliances, and plant as may be on the Site of Work and necessary therefor.

- (1) Preserve all Materials, Drawings and records and Plans at Site of the Work until notified in writing of those items, which will be used in completing Work.
- (2) Upon receipt of the foregoing notice, remove from Site of the Work all construction materials, equipment and plant not designated for use in such notice.
- (3) Assist the City in making an inventory of all Materials and Equipment in storage at the Site of Work, in route to the Site of Work, in storage or manufactured at other locations, and on order from Suppliers.

GC-23.2 City's Right to Stop the Work

If the Contractor fails to correct defective Work as required by the Agreement Documents, or fails to carry out the Work or supply labor or Materials in accordance with the Agreement Documents, the City, in writing, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the City and the Engineer to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity.

GC-23.3 Termination by the City for Contractor Default

- A. If the Contractor is adjudged as bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper Materials, or fails to make prompt payment to Subcontractors or for Materials or labor, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a material violation of a provision of the Contract Documents, and fails within seven (7) days after receipt of written notice to commence and continue correction of such default, neglect or violation with diligence and promptness, the City, may, after seven (7) days following receipt by the Contractor of an additional Written Notice and without prejudice to any other remedy the City may have, terminate the employment of the Contractor and take possession of the Site and of all Materials, Equipment, tools, construction Equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.
- B. If the unpaid balance of the Agreement Price exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City on demand. This obligation for payment shall survive termination of the Agreement.
- C. Termination of this Agreement pursuant to this GC-23 may result in disqualification of Contractor from bidding on future City contracts.

GC-23.4 Termination for Convenience of City

- A. The City may, at any time upon thirty (30) days Written Notice to the Contractor, terminate (without prejudice to any right or remedy of the City) the whole or any portion of the Work for the convenience of the City.
- B. If, after the Contractor has been terminated for default pursuant to Paragraph GC-23.3, it is determined that none of the circumstances set forth in Paragraph GC-23.3 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph GC-23.4 A.
- C. If the City terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, then the City shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Paragraph GC-23.4 D, plus a markup of ten percent (10%) on the actual fully accounted costs recovered under Paragraph GC-23.4 D; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of settlement to reflect the indicated rate of loss.

D. If the City terminates the whole or any portion of the Work pursuant to Paragraph GC-23.3 A, the City shall pay the Contractor the amounts determined by the Engineer as follows:

1. An amount for supplies, services, or property accepted by the City pursuant to Clause GC-23.4 C.6, (or sold or acquired pursuant to Clause GC-23.5 C.7), and not heretofore paid for, and to the extent provided in the Agreement such amount shall be equivalent to the aggregate price for such Supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and
2. The total of:
 - (a) The cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Clauses GC-23.4 D.1 or GC-23.4 D.2(b);
 - (b) The cost of settling and paying claims arising out of the termination of Work under subcontracts or orders, pursuant to Clause GC-23.4 C.5, which are properly chargeable to the terminated portion of the Agreement (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination, which amounts shall be included in the costs payable under (a) above); and
 - (c) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Agreement and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this Agreement.

E. The total sum to be paid to the Contractor under this Paragraph GC-23.4 shall not exceed the Agreement Price as reduced by the amount of payments otherwise made, by the Agreement Price of Work not terminated and as otherwise permitted by the Agreement. Except for normal spoilage, and except to the extent that the City shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in this Paragraph GC-23.4, the fair value, as determined by the City, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the City, or to a buyer pursuant to Clause GC-23.5 C.7.

GC-23.6 General Termination Provisions

- A. If the City terminates the whole or any part of the Work pursuant to Paragraph GC-23.3, then the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this Agreement to the extent not terminated hereunder.
- B. Should the Contractor default under any of the provisions of the Agreement, the Contractor and its surety will pay to the City such reasonable attorneys' fees as the City may expend as a result thereof and all costs, expenses and filing fees incidental thereto.
- C. After receipt of a notice of termination from the City, pursuant to Paragraph GC-23.3 or GC-23.4, and except as otherwise directed by the City, the Contractor shall:
 - 1. Stop Work under the Agreement on the date and to the extent specified in the notice of termination;
 - 2. Place no further orders or subcontracts for Materials, services, or facilities, except as may be necessary for completion of such portion of the Work under the Agreement as is not terminated;
 - 3. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
 - 4. Assign to the City in the manner, at the times and to the extent directed by the City, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - 5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City to the extent the Engineer may require, which approval or ratification shall be final for all the purposes of this Clause;
 - 6. Transfer title and deliver to the entity or entities designated by the City, in the manner, at the times and to the extent, if any, directed by the City, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the Work as had been terminated:

- (a) The fabricated or unfabricated parts, Work in progress, partially completed supplies, and Equipment, Materials, parts, tools, dies, jigs, and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of the Work terminated by the notice of termination; and
 - (b) The completed or partially completed Plans, Drawings, information, and other property related to the Work;
 - 7. Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the City, any property of the types referred to in Clause GC-23.5 C.6; provided, however, that the Contractor:
 - (a) Shall not be required to extend credit to any buyer; and
 - (b) May require any such property under the conditions prescribed by and at a price or prices approved by the City; and, provided, further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor under this Agreement or shall otherwise be credited to the price or cost of the Work covered by this Agreement or paid in such other manner as the City may direct;
 - 8. Complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
 - 9. Take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to the Agreement, which is in the possession of the Contractor and in which the City has or may acquire an interest.
- D. The Contractor shall preserve and make available to the City, at all reasonable times at the office of the Contractor, but without direct charge to the City, all its books, records, documents and other evidence bearing on the costs and expenses of the Contractor and any subcontractor under the Agreement and relating to the Work terminated hereunder, all to the extent provided in GC-54 hereof, or, to the extent approved by the Engineer, photographs, microphotographs, or other authentic reproductions thereof.
- E. In arriving at any amount due the Contractor pursuant to Paragraph GC-23.3 or GC-23.4, there shall be deducted:
- 1. All unliquidated advance or other payments on account theretofore made to the Contractor applicable to the termination portion of this Agreement;

2. Any claim which the City may have against the Contractor;
 3. Such claim as the Engineer determines to be necessary to protect the City against loss because of outstanding or potential liens or claims; and
 4. The agreed price for, or the proceeds of sale of, any Materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of Clause GC-23.5 C.7 and not otherwise recovered by or credited to the City.
- F. If the termination, pursuant to Paragraph GC-23.4, be partial, the Contractor may file with the City a claim for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement (the portion not terminated by the notice of termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this Clause must be asserted within thirty (30) days from the effective date of the notice of termination.
- G. The Contractor shall refund to the City any amounts paid by the City to the Contractor in excess of costs reimbursable under Paragraph GC-23.4.
- H. The City may, at its option and the Contractor's expense, have costs reimbursable under Paragraph GC-23.4 audited and certified by independent certified public accountants selected by the City.
- I. The Contractor shall be entitled to only those damages and that relief from termination by the City as specifically provided in Article GC-23.

GC-24 SUSPENSION OF WORK

- A. The City may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the City.
- B. If the performance of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the City or Engineer in the administration of the Agreement, or by failure of any one of them to act within the time specified in the Agreement (or if no time is specified, within a reasonable time), an equitable adjustment shall be made for any increase in Contractor's costs of performance (excluding profit) and any increase in the time required for performance of the Work necessarily caused by such unreasonable suspension, delay, or interruption and the Agreement modified in writing accordingly. However, no equitable adjustment shall be made under this Paragraph for any suspension, delay, or interruption (pursuant to Paragraph GC-23.2), or for which an equitable adjustment is provided or excluded under any other provision of the Agreement Documents and no adjustment shall be made to the extent that performance would have

been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment under this Paragraph shall be allowed (1) before the Contractor shall have notified the City in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from an order issued "GC 23 A") and as practicable, the extent of such suspension, delay or interruption; and (2) unless the claims for increased costs or increased time required are asserted in writing to the City within ten (10) days after the termination of such suspension, delay, or interruption.

GC-25 COMMENCEMENT AND PROSECUTION OF THE WORK

Contractor shall, within ten (10) days after receipt from the City of a written Notice to Proceed, commence Work to be done under this Agreement. Contractor shall diligently prosecute Work and all portions thereof to completion within the times specified therefor. The capacity of Contractor's construction and manufacturing equipment and plans, sequence and methods of operations, and forces employed, including management and supervisory personnel, shall be such as to insure completion of Work within the specified time.

It is expressly understood and agreed by and between Contractor and City that Agreement Time for the completion of Work described herein is a reasonable time, taking into consideration the average climate and economic conditions and other factors prevailing in the locality of the Work.

GC-26 TIME

GC-26.1 Progress and Completion

- A. All time limits stated in the Agreement Documents are of the essence of the Agreement.
- B. The Contractor shall begin the Work within ten (10) days after the issuance of the Notice to Proceed. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion of the Work and Final Completion within the times stated in the Agreement Documents, including the Project Network Schedule.

GC-26.2 Delays and Extensions of Time

- A. Except as otherwise specifically provided under Paragraph GC-24 (Suspension of Work) or Paragraph GC-42 (Change Orders), the Contractor shall not be entitled to payment or compensation of any kind from the City for direct, indirect, or impact damages, including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the

part of the City or its agents. The Contractor shall be entitled only to extensions in the time required for performance of the Work as specifically provided in the Agreement.

- B. The Agreement Time shall be adjusted only for Changes in the Work (pursuant to Paragraph GC-42), Suspension of Work (pursuant to Paragraph GC-24) and excusable delays (pursuant to Subparagraph GC-26.2 C). In the event the Contractor requests an extension of the Agreement Time, he shall furnish such justification and supporting evidence as the City may deem necessary for a determination as to whether the Contractor is entitled to an extension of time under the provisions of the Agreement. The City, after receipt of such justification and supporting evidence, shall make its findings of fact and decision thereon shall advise the Contractor in writing thereof. If the City finds that the Contractor is entitled to any extension of the Agreement Time, the City's determination as to the total number of days' extension shall be based upon the currently approved Project Network Schedule and on all data relevant to the extension as described in the Agreement Documents. Such data will be included in the next periodic updating of the schedule. The Contractor acknowledges and agrees that actual delays (due to changes, suspension of Work or excusable delays) in activities which according to the schedule, do not affect the Agreement Time, do not have any effect upon the Agreement Time and therefor will not be the basis for a change therein.
- C. Subject to other provisions of the Agreement Documents, the Contractor may be entitled to an extension of the Agreement Time (but not increase in the Agreement Price) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its Subcontractors as follows:
1. Labor strikes including strikes affecting transportation, that do, in fact, directly and critically affect the progress of the Work; however, an extension of Agreement Time on account of an individual labor strike shall not exceed the number of calendar days of said strike;
 2. Acts of God, tornado, fire, hurricane, blizzard, earthquake, typhoon, or flood that damage completed Work or stored materials;
 3. Abnormal weather; however, the Agreement Time will not be extended due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the City that there was greater than normal inclement weather considering the full term of the Agreement Time using a ten (10) year average of accumulated record mean values from climate to logical data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for Atlanta, Georgia, and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Agreement Time, the Contractor shall not be entitled to an extension of time;

4. Acts of the public enemy, acts of the state, federal, or local government in its sovereign capacity, and acts of another separate contractor in the performance of a agreement with the City relating to the Project; and
 5. Any act or neglect of the City or the Engineer or any of their employees.
- D. Other than pursuant to Paragraph GC-24 and Paragraph GC-42, no claims for extension of time for delay, disruption, interference or hindrance of the Work hereunder, or any portion thereof, shall be valid unless a notice of a claim is filed with the City within ten (10) days of the first instance of such delay, disruption, interference or hindrance and, in addition, unless a written statement of the claim as hereinafter described is filed with the City within twenty (20) days of such first instance; otherwise, all such claims are waived by the Contractor. In the case of a continuous cause of delay, only one written claim is necessary.
- E. Such notice of claim must clearly identify the instance of delay, disruption, interference or hindrance and an estimate of the probable effect of such delay on the progress of the Work.
- F. Such statement of the claim must provide all information required by the scheduling requirements of the Agréement Documents and further provide the following specific information:
1. Nature of the delay;
 2. Date (or anticipated date) of commencement of delay;
 3. Activities on the construction schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;
 4. Identification of person(s) or organization(s) or event(s) responsible for the delay;
 5. Anticipated extent of delay; and;
 6. Recommended action to avoid or minimize the delay.
- G. The City shall receive and process such claims for extensions of time in accordance with the procedures set forth in Paragraphs GC-42 and GC-43, except that any Change Order issued shall only amend the time for completion.
- H. The failure of the Contractor to file any claims for extension of time within the time limits prescribed herein and in the form and manner required hereby shall be deemed a

material prejudice to the interests of the City and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

- I. If no schedule or agreement is made stating the date upon which written interpretations as set forth in the Agreement Documents shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after demand is made for them, and not then unless such claim is reasonable.
- J. To the extent that Contractor is entitled to additional compensation for delay, disruption, interference or hindrance under this Paragraph GC-26.2, an absolute condition precedent to such entitlement shall be strict compliance with all requirements and procedures for entitlement to an extension of time hereunder.

GC-26.3 Limitation of Damages

Under no circumstances shall Contractor be paid for extended home office overhead, lost use of capital, impairment of bonding capacity, loss of potential profit or any other indirect costs.

GC-27 RESPONSIBILITY FOR COMPLETION

GC-27.1 Duty to Accelerate

Subject to the other provisions of the Agreement Documents, the Contractor shall furnish such manpower, Materials, facilities, and Equipment and shall work such hours, including night shifts, overtime operations and Sunday and holidays, as may be necessary to ensure the prosecution and completion of the Work in accordance with the approved and currently-updated Project Network Schedule. If Work actually in place falls behind the currently updated and approved Project Network Schedule, and it becomes apparent from the current schedule that the Work will not be completed within the Agreement Time, the Contractor agrees that it will, as necessary or as directed by the City, take some or all of the following actions at no additional cost to the City to improve their progress:

- A. Increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the City, the backlog of Work;
- B. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment or any combination of the foregoing, sufficiently to substantially eliminate in the judgment of the City, the backlog of Work;
- C. Reschedule activities to achieve maximum practicable concurrency of accomplishment of activities; and
- D. Any other measure required by the schedule requirements of the Special Conditions.

In addition, the City may require the Contractor to submit a proposed revised Project Network Schedule demonstrating its program and proposed plan to make up lag in scheduled progress and to ensure completion of the Work within the Agreement Time. If the City finds the proposed plan not acceptable, the City may require the Contractor to submit a new plan. If the actions taken by the Contractor or the second plan proposed are not satisfactory, the City may require the Contractor to take any of the actions set forth in this Paragraph GC-27.1 without additional costs to the City to make up the lag in scheduled progress.

GC-27.2 Acceleration by City's Forces

Failure of the Contractor to substantially comply with the requirements of Paragraph GC-27.1 may be considered grounds for a determination by the City and/or the Engineer that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified. In such case, upon forty-eight (48) hours prior Written Notice to Contractor, City shall have the right to furnish such additional labor and Materials as may be required to comply with the schedule and the Contractor shall be liable for such costs incurred by City.

GC-27.3 Set-Off of Acceleration Costs

Any monies due to the City under this Section may be set-off by the City against monies due from the City to the Contractor.

GC-27.4 Acceleration Remedies Cumulative

The remedies of the City set out in this Section GC-27 are in addition to, and without prejudice to, all other rights and remedies of the City including those stated elsewhere in the Agreement Documents.

GC-28 WORKING DRAWINGS, SHOP DRAWINGS, DATA ON MATERIAL AND EQUIPMENT, SAMPLES, AND LICENSES

GC-28.1 General

- A. Contractor shall submit to the Engineer for review and exception, if any, such working Drawings, Shop Drawings, test reports and data on Materials, licenses, and Equipment (hereinafter in this article called data), and material samples (hereinafter in this article called samples) as are required for the proper control of Work, including but not limited to, those working Drawings, Shop Drawings, data and samples specifically required elsewhere in the Specifications and Agreement Documents. Submittals are required for any product that becomes a part of or affects the permanent Work.
- B. Data on Materials and Equipment include, without limitation, Materials and Equipment lists, catalog data sheets, cuts, diagrams and similar descriptive material. Materials and

Equipment lists shall give, for each item thereon, the name and location of the Supplier or manufacturer, trade name, catalog reference, size, finish and all other pertinent data.

- C. It is the duty of the Contractor to check all Drawings, data and samples prepared by or for him before submitting them for review. Drawings and schedules shall also be checked and coordinated with the Work of all trades involved. Drawings and other submittals originating from Subcontractors will be reviewed and checked similarly by the Contractor. Pursuant to this required review, Contractor shall indicate his approval, before they are submitted for review by the City, by affixing his stamp of approval, properly initialed and dated. All submittals shall be referenced to the applicable item, section or division of the Specifications.
- D. The Engineer's review of Drawings, data and samples submitted by Contractor will cover only general conformity to the Specifications, external connections, and dimensions which affect the installation. The Engineer's review and exception, if any, will not constitute an approval of dimensions, quantities, and details of the Material, Equipment, device, or item shown.
- E. Contractor shall not begin any of the Work covered by a Drawing, data, or a sample returned for correction until a revision or correction thereof has been reviewed and returned to him.
- F. The Construction schedule shall include respective dates for the submission of shop and work Drawings, the beginning of manufacture, testing and installation of Materials, Supplies and Equipment.
- G. Acceptable submittals will be marked "No Exceptions Taken." Submittals requiring minor corrections before the Material or Equipment is acceptable will be marked "Make Corrections Noted." The Contractor may order, fabricate or ship the items included in the submittal, provided the indicated corrections are made. Drawings must be resubmitted for review prior to installation of Equipment or use of Materials.
- H. Submittals marked "Amend and Resubmit" must be revised to reflect required changes and the initial review procedure repeated.
- I. The "Rejected - See Remarks" notation is used to indicate Materials or Equipment that are not acceptable. Upon return of a submittal so marked, the Contractor shall repeat the initial review procedure utilizing acceptable Materials or Equipment.
- J. Drawings on other submittals not bearing the Engineer's "No Exceptions Taken" notation shall not be issued to Subcontractors or utilized for construction purposes. No Work shall be done or equipment installed without a drawing or submittal bearing the "No Exceptions Taken" notation. The Contractor shall maintain at the job site a complete set of Drawings and other submittals bearing the Engineer's stamp.

- K. In the event the Contractor obtains the City's approval for the use of Equipment other than that which is called for in the Agreement Documents, the Contractor shall, at his own expense and using methods approved by the City, make any changes to structures, piping and electrical work that may be necessary to accommodate this equipment.
- L. Contractor shall submit all Drawings and schedules sufficiently in advance of construction requirements to provide no less than thirty (30) calendar days for checking and appropriate action.
- M. The review of Drawings and schedules will be general, but approval shall not be construed: (a) as permitting any departure from the Agreement requirements; (b) as relieving Contractor of responsibility for any errors, including details, dimensions, and Materials; and (c) as approving departures from details furnished by the City, except as otherwise provided herein.

GC-28.2 Shop Drawings

- A. When used in the Agreement Documents, the term "Shop Drawings" shall be considered to mean fabrication drawings, wiring and control diagrams, cuts, or entire catalogs, pamphlets, descriptive literature, and performance and test data. The Drawings shall be submitted using standard transmittal forms in accordance with detailed instructions furnished by the City. A separate transmittal sheet shall be used for reference to each item, section or division of the Specifications.
- B. The Contractor shall submit six (6) sets of each Shop Drawing for review. On electrical and instrumentation and control submittals the Contractor shall submit six (6) copies of each for review.
- C. Each Shop Drawing shall include the following:
 - 1. Number and title of the submittal;
 - 2. Date of Drawing or revision;
 - 3. Name of Project;
 - 4. Name of Contractor and or Subcontractor submitting Drawing and with its seal of approval;
 - 5. Specification title and number; and
 - 6. Clear identification of contents and location of the Work.
- D. Drawings for Work on utility facilities, streets and other facilities, which are constructed for owners other than the City, shall be coordinated so that information required by these owners is included on the Shop Drawings for their facilities.
- E. If Drawings show variations from Agreement requirements, Contractor shall describe such variations in his letter of transmittal. If acceptable, proper adjustment in Agreement shall be implemented where appropriate. If Contractor fails to describe such variations,

he shall not be relieved of the responsibility for executing the Work in accordance with Agreement, even though such Drawings have been reviewed.

- F. If the Drawings or schedules as submitted describe variations per Subparagraph GC-28.2 C.5, and show a departure from the Agreement requirements which the City finds to be in the interest of the City and to be so minor as not to involve a change in Agreement Price or time for performance, the City may return the reviewed Drawings without noting an exception.
- G. If no exceptions are taken by the City, each of the Shop Drawings will be identified by being so stamped and dated. Shop Drawings stamped "Rejected - See Remarks" and with required corrections shown, will be returned to Contractor for correction and re-submittal. On re-submittals, Contractor shall direct specific attention, in writing or on resubmitted Drawings, to revisions other than the corrections requested by the City on previous submissions. Contractor shall make any corrections required by the City. If Contractor considers any correction indicated on the drawings to constitute a change to the Agreement Drawings or Specifications, Contractor shall give Written Notice thereof to the City. At least two (2) copies of Drawings or data submittals will be returned to Contractor.
- H. When the Drawings or data submittals have been completed to the satisfaction of the City, Contractor shall carry out the construction in accordance therewith and shall make no further changes therein except upon written instructions from the City.
- I. After final review in which there are no exceptions noted or referenced, and before final payment is made, Contractor shall furnish to the City two (2) sets of record Shop Drawings, all clearly revised and completed and brought up to date, showing the permanent construction as actually made and marked FINAL/AS-BUILTS. One (1) set of such Shop Drawings shall be either drawn in ink on tracing cloth, or reproduced on mylar from which clear prints can be made. The other set could be a complete paper print.
- J. Contractor shall be responsible for and bear all cost of damages which may result from the ordering of any material or from proceeding with any part of Work prior to the review, without exception, by the City of the necessary Shop Drawings.

GC-28.3 Working Drawings

- A. When used in the Agreement Documents, the term "Working Drawings" shall be considered to mean Contractor's plans, including a detailed narrative, for temporary structures such as temporary bulkheads, support of open cut excavation, support of utilities, ground water control systems, forming and false work; for underpinning; and for such other work as may be required for construction but does not become an integral part of the Project.

- B. Copies of Working Drawings shall be submitted to the City where required by the Agreement Documents or requested by the City in accordance with subparagraph GC-28.2 C.2, and shall be submitted at least thirty (30) calendar days in accordance with subparagraph GC-28.1 L. (unless otherwise specified by the Engineer) in advance of their being required for Work.
- C. Working Drawings shall be signed by an engineer licensed to practice in the State of Georgia and shall convey, or be accompanied by, calculation of other sufficient information to completely explain the structure, machine, or system described and its intended manner of use. Prior to commencing such Work, Working Drawings must have been reviewed to the satisfaction of the City, and each Working Drawing identified by the City with the Engineer's stamp of "No Exception Taken." Review of the Working Drawings by the Engineer will not relieve Contractor in any way from his responsibility with regard to the fulfillment of the terms of Agreement. All risks of error are assumed by Contractor. The City and the Engineer shall have no responsibility therefor.

GC-28.4 Record Agreement Drawings

Contractor shall keep one (1) record copy of all Agreement Documents, reference documents, and all technical submittals at the Site in good order and annotated to show all changes made during the construction process. Record Drawings shall be updated and kept current on a monthly basis by the Contractor. The record Drawings will be reviewed monthly by the City prior to approval of the Contractor's monthly pay request. At the completion of the Project and before final payment is made, Contractor shall furnish the City with one (1) set of electronic reproducible documents, reflecting all changes herein described. Changes to the reproducible Drawings shall be drafted in a neat and workmanlike manner similar to the drawings as originally provided to the Contractor. Upon request, the City will provide one (1) set of sepia's of the original Agreement Drawings, at no cost to Contractor.

GC-28.5 Samples

- A. Contractor shall furnish, for the approval of the City, samples required by the Agreement Documents or requested by the City. Samples shall be delivered to the City as specified or directed. Contractor shall prepay all shipping charges on samples. Materials or Equipment for which samples are required shall not be used in Work until approved by the City.
- B. Each sample shall have a label indicating:
 - 1. Name of Project;
 - 2. Name of Contractor and Subcontractor;
 - 3. Material or Equipment Represented;
 - 4. Place of Origin;
 - 5. Name of Producer and Brand (if any); and
 - 6. Location in Project.

- C. Contractor shall prepare a transmittal letter in triplicate for each shipment of samples containing the information required in Subparagraph 2 above. He shall enclose a copy of this letter with the shipment and send a copy of this letter to the City. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any Agreement requirement. Substitutions will not be permitted unless they are considered to be to the City's best interest.
- D. Approved samples not destroyed in testing shall be sent to the City or stored at the Site of the Work. Approved samples of the hardware in good condition will be marked for identification and may be used in the Work. Materials and Equipment incorporated in the Work shall match the approved samples. Samples which failed testing or were not approved will be returned to Contractor at its expense, if so requested at time of submission.
- E. The Contractor will provide architectural samples to the City in a composite color board format for review and color coordination. These samples shall be of the precise Material and color specified and of sufficient size for comparison to other material samples.
- F. Custom colors and coatings may be required to complete the Project within acceptable architectural standards. The Contractor shall comply with the Architect's selection and provide Materials that precisely match the approved samples.

GC-28.6 Operation and Maintenance Manuals

- A. Operation and maintenance manuals are operator and shop maintenance instructions that enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data that provides positive identification for an item of the complete Equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.
- B. Preparation Instructions: An operation and maintenance manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime Supplier or those purchased by the prime Supplier from other sources and assembled in the finished end item.

- C. Contents of Operation and Maintenance Manuals: The contents of complete set of manuals shall include, at a minimum, the following:
- (a) Table of Contents;
 - (b) Operating instructions;
 - (c) Preventive maintenance, service, and corrective maintenance or repair instructions;
 - (d) Parts list with recommended quantity; and
 - (e) Approved Shop Drawing(s).
- D. Binding and Delivery: The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate in bold type the manufacturer's name, contract number, model number, and serial number of the unit or equipment. Five (5) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

GC-29 CONTRACTOR'S TITLE TO MATERIALS

No Materials or supplies for the Work shall be purchased by Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales contract or other agreement by which all interest is retained by the seller. Contractor warrants that he has good title to all Materials and supplies used by him in the Work, free from all liens, claims or encumbrances.

GC-30 INSPECTION AND TESTING OF MATERIALS

All Materials and Equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with accepted standards and the requirements of the Agreement Documents. The laboratory of inspection agency shall be provided by the Contractor and approved by the City for these tests. Additional tests performed after rejection of Materials or Equipment shall be at the Contractor's expense.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with Specifications and suitability for uses intended, but failure to inspect Materials will in no way waive the City's right to reject defective Materials or to condemn Work in which they are used. The Contractor will provide for travel expenses, factory performed testing and set up costs for the factory inspection and testing of all major architectural elements, mechanical, electrical or process equipment. A factory visit for both designers' representative and City's representative may be required. No funds for stored materials or fabrication items will be released until the factory inspection is completed and a certified pay request is submitted.

All tests performed by Contractor shall be witnessed by the City unless the requirement therefor is waived in writing. Contractor shall give the City reasonable advance notice of all such tests.

The City may perform additional tests on materials tested by Contractor, and Contractor shall furnish samples for this purpose as requested.

GC-31 MATERIALS AND EQUIPMENT

Contractor shall furnish all Materials and Equipment to be incorporated into the Work. Only Materials and Equipment conforming to the requirements of the Drawings and Specifications shall be incorporated into the Work. Except as otherwise specified or approved in specific instances, all such Materials and Equipment shall be new and unused and of the highest quality available. Materials and Equipment for which no specific requirements are given in the Drawings or specifications shall be those best suited for the specified use, considering function, strength, durability and resistance to corrosion. Manufactured Materials and Equipment shall be obtained from sources which are currently manufacturing such Materials or Equipment, except as otherwise approved in specific instance.

If so ordered by the Engineer, sources of Materials shall be approved by him before delivery from those sources is commenced. Approval of a source of Materials may be withdrawn by the Engineer at any time that the Materials delivered from that source are found to be defective, and Contractor shall thereupon cease all deliveries from that source.

Manufacturer's warranties, certifications, guarantees, manuals, instruction sheets and parts lists provided with materials and equipment shall be furnished to the Engineer before final payment is made.

GC-32 STORAGE OF MATERIALS AND EQUIPMENT

Materials and Equipment to be incorporated in the Work shall be stored in such a manner as to preserve their quality and fitness for incorporation in the final project. They shall be stored in a manner acceptable to the Designer and Owner and in an accessible facility that allows inspection. If at any time the City determines that any Materials or Equipment are not being properly stored, they may issue a directive to correct the storage or reject the Material for incorporation in the Project under GC-23. No additional payment will be made for storage requirements. No payment will be made on Materials stored improperly or replaced due to improper storage.

No Equipment may be stored outside without the express written permission of the City on that specific piece of equipment stating that unit's unique I.D. numbers.

For any Equipment or units that have rotating parts or bearing assemblies and must be stored for more than sixty (60) days, the Contractor shall set up a schedule to manually rotate the units every fifteen (15) days and maintain a log certification to preserve the service life and warranties.

GC-33 REPORTS, RECORDS, AND DATA

GC-33.1 General

Contractor shall submit to the City schedules of quantities and costs, progress schedules, reports, estimates, records, certificates, and other data as the City may request concerning Work performed or to be performed under this Agreement.

GC-33.2 Payroll Reports

Contractor shall be required to furnish weekly payroll reports to the City, certifying conformance with the wage rates listed in the Specifications. The requirement applies to Contractor and its Subcontractors. These reports shall show completed payroll information, and such certificates and statements of compliance as required in the Federal Labor Standards and by the City relative to payrolls. The schedule of wage rates shall be posted on a bulletin board available to the workers.

GC-33.3 Contractor's Daily Reports

As soon as Contractor has started Work on the Project, he shall submit to the City written daily reports of the Work performed the previous day by its employees, including the employees of Subcontractors.

The reports shall be prepared by Contractor's representative and shall bear his signature. Each report shall contain the following information:

- (a) Work items and references to payment items;
- (b) Work forces and construction Equipment employed;
- (c) Materials and Equipment installed; and
- (d) Work performed by Subcontractors.

GC-34 CONTRACTOR'S SUPERVISION OF THE WORK

GC-34.1 General

Contractor shall provide competent, efficient supervision of the Work. All Work shall be performed in a skillful, workmanlike and orderly manner, and Contractor and his supervisory personnel shall enforce this requirement at all times.

GC-34.2 Contractor's Representative

Before beginning Work, Contractor shall notify the City in writing of one (1) person within his organization, satisfactory to the City, who shall have complete authority to supervise Work, to receive orders from the City, and to represent and act for Contractor in all matters arising under Agreement. Contractor shall not remove his representative without first designating, in writing, a new representative, who meets all of the foregoing requirements.

Contractor's representative shall normally be present at or about the Site of Work while the Work is in progress. Before leaving the Site of Work for any extended period, whether or not the Work is in progress, Contractor's representative shall notify the City, in writing, of the designation of an assistant, satisfactory to the City, with full authority to act for the representative in his absence, or shall make substitute arrangements satisfactory to the City. When neither Contractor, his representative, nor the representative's authorized assistant is present on a part of Work, the superintendent, foreman, or other employee or Contractor in charge of that part of the Work shall be an authorized representative of the Contractor for the purposes set forth above.

GC-35 SUBCONTRACTORS AND SUPPLIERS

Contractor may utilize the services of specialty Subcontractors on those parts of Work that, under normal contracting practices, are performed by specialty Subcontractors, except as otherwise required by the Agreement Documents.

In addition to the designation of Subcontractors in the proposal documents, Contractor shall submit to the City a listing of the Subcontractor name, full address and telephone number, contact person, class or trade of work, list of similar past projects worked on, including reference names, telephone numbers, and other information as applicable to that contractor and the provisions of the Agreement Documents. Contractor shall make Subcontractor submittals sufficiently in advance of construction requirements to provide the Engineer and City with no less than sixty (60) days for review and appropriate action.

Neither Contractor nor any Subcontractor shall award Work to any Subcontractor without prior written approval of the City. Contractor shall be as fully responsible to the City for the acts and omissions of all Subcontractors and Suppliers, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to Work to bind Subcontractors and Suppliers to Contractor by the terms of the General Conditions and other Agreement Documents, insofar as applicable to the work of Subcontractors and Suppliers, and to give Contractor the same power as regards terminating any subcontract that the City may exercise over Contractor under any provisions of the Agreement Documents.

Nothing contained in this Agreement shall create any contractual relation between any Subcontractor, Supplier and the City. The Contractor shall not award more than seventy-five percent (75%) of the Work to Subcontractors.

GC-36 INSPECTION OF WORK

GC-36.1 General

All of Work shall be subject to inspection by the City for conformity with the Drawings and Specifications. Working Drawings, Shop Drawings, data on Materials and Equipment, and material samples will be reviewed under Clause GC-28. Inspection of the balance of Work will

be in accordance with this article, unless otherwise expressly indicated. Material tests conducted pursuant to Clause GC-30 and all other specified tests will be considered part of the inspection process and shall be subject to all of the provisions of this clause.

GC-36.2 Engineer's Access to Work

The Engineer shall have access to, and may inspect Work at all times and places. He shall have access to, and may inspect, Materials and Equipment to be incorporated in Work at all times at the place of production or manufacture and at the shipping point, as well as at Site of Work.

The Engineer will designate the Materials and Equipment to be inspected at the place of production or manufacture. Contractor shall give the Engineer fourteen (14) days advance written notice of the start of manufacture or production of Materials and Equipment so designated. The Engineer's failure to so designate Materials and Equipment shall in no way limit his right to inspect them at the place of production of manufacture.

Contractor's Materials and Equipment contracts shall include a notice to the Supplier or Subcontractor of the inspection requirements of this clause.

GC-36.3 Cooperation And Safety

The Engineer will perform inspections in such manner as not to delay Work unnecessarily, and Contractor shall perform the Work in such manner as not to delay inspection unnecessarily. Contractor shall give the Engineer reasonable advance notice of operations requiring special inspection of a portion of Work at any time by reasonable advance notice to the Engineer.

If requested by the Engineer, the Contractor shall submit written certification, in a form approved by the Engineer, that he has inspected the Work prior to inspection by the Engineer, and that it complies with the Agreement Documents.

Contractor shall bear any additional inspection costs resulting from Contractor's failure to have a portion of Work ready for inspection at the time requested by Contractor for its inspection, or from reinspection of any previously rejected portion of Work where the defects requiring such rejection were due to the Contractor's fault or negligence. Such costs may be deducted, in whole or in part, from any money due or that may become due Contractor under this Agreement.

Contractor shall furnish the Engineer all reasonable facilities for his safety and convenience in inspecting the Work, at all times and at all places where inspection may take place. If the Engineer finds that conditions are unsafe for inspection at a particular location, he may, upon notice to Contractor, refuse to inspect in that location until such conditions are corrected. Contractor shall bear any additional costs incurred to permit subsequent inspection of any portion of Work covered or completed at the location before correction of the conditions, whether or not such portion of Work is found to meet Agreement requirements.

GC-36.4 Inspection of Covered or Completed Portions of Work

If so ordered in writing by the Engineer, Contractor shall uncover, remove, tear out, or disassemble, in whole or in part, any covered or completed portion of Work to permit its inspection. If that portion of Work is found to be defective or unauthorized, Contractor shall bear all costs of uncovering, removal, tearing out, or disassembly, and the provisions of Clause GC-21 shall apply. If such portion of the Work is found to conform with the Agreement Drawings and Specifications, it shall be recovered, replaced, reassembled, or otherwise restored by Contractor to its original condition and, except as stated below, all Work required in connection with the inspection will be considered extra Work under Clause GC-41. If such portion of Work was covered or completed without the approval of the Engineer, where such approval was required by the Specifications or required in advance by the Engineer, Contractor shall bear all costs involved in the inspection, notwithstanding conformance of such portion of Work with the Agreement Drawings and Specifications.

GC-36.5 Inspection Not a Waiver or Acceptance

Neither the inspection nor lack of inspection of any portion of the Work, nor the presence or absence of the Engineer during performance of any of the Work, nor acceptance of the whole or any part of the Work by the Engineer, nor any possession taken by the City or its employees shall operate as a waiver of any provision of this Agreement or any power herein reserved to City or any rights to damages herein provided. Should an error in the estimate, or conclusive proofs of defective Work or materials used by or on the part of Contractor be discovered after the final payment has been made, the City reserves the right to claim and recover by process of law such sums as may be sufficient to correct the error or to make good the defects in the Work and Materials.

GC-36.6 Correction of Non-Compliant Work

If the Contractor is found to have Work that fails to meet the intent of the Plans and Specifications, or is in other aspects unsuitable he may be issued a notice of non-compliance on that portion of the Project Work. The Contractor shall remedy the defective or incorrect Work within twenty-four (24) hours unless a different schedule is agreed to in writing. This non-compliance status may be issued on temporary installations that fail to protect the Work or site conditions.

GC-37 CITY'S AUTHORITY

The City shall have authority to decide all questions as to interpretation and fulfillment of Agreement requirements, including, without limitation, all questions as to the prosecution, progress, quality and acceptability of Work. The City may implement and enforce its decisions by orders, instructions, notices, and other appropriate means.

Any oral decision, order, instruction, or notice of the City will be confirmed in writing. Such confirmation shall state the specific subject of the decision, order, instruction, or notice and its date, time, place, author and recipient. All communications between City and Contractor or its representative will be through the City.

Inspectors may be appointed to inspect all Materials used and all Work done. Such inspection may extend to all or any part of the Work and to the preparation or manufacture of the Materials to be used. Inspectors will not be authorized to approve or accept any portion of the completed Work or to issue instructions contrary to the Plans and Specifications. Inspector will have authority to reject defective Material and to suspend Work that is being improperly done, subject to the final decision of the City. Inspector shall, in no case, act as foreman or perform other duties for Contractor.

GC-38 PROGRESS PAYMENTS

GC-38.1 Progress Estimates

The Contractor shall submit to the Engineer for approval, in the form directed or acceptable to the Engineer, a complete schedule of values of the various portions of the Work, including quantities and unit prices, aggregating the Agreement Price (except in cases and to the extent that accepted unit prices form the basis of payment). The schedule shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction and to coordinate with the progress schedule required under the Special Conditions, and shall be supported by such data to substantiate its correctness as the Engineer may require. Each item in the schedule of values shall include its proper share of overhead and profit. An unbalanced breakdown providing for overpayment to the Contractor on items of Work which would be performed first will not be approved. The schedule of values, when approved by the Engineer, shall be used only as a basis for the Contractor's monthly request for payment and shall not be used for additions to or deductions from the Agreement Amount.

Subject to the provisions of this clause, Contractor shall prepare a written report for the Engineer's approval, on City furnished forms, of the total amount of value of Work performed under the proposal items of Agreement to the time of such estimate and in accordance with the progress report based on the approved schedule.

No progress estimate or payment shall be considered an approval or acceptance of any work performed, material, or equipment furnished. All estimates and payment will be subject to correction in subsequent estimates and the final estimate.

Progress payments will be made for all completed activities and for suitably stored materials as herein provided.

GC-38.2 Progress Payments

Upon completion of each monthly estimate of Work performed and Materials furnished, the Engineer, subject to the provisions of the Agreement Documents, shall recommend payment to the Contractor for the estimated value of such Work, Materials and Equipment, less the amount of all prior payments and all liquidated damages and other amounts to be deducted or retained under the Agreement. Contractor will be paid one hundred (100%) percent, less retainage, of the cost of Materials received and properly stored but not incorporated into the Work. Payments for Materials or Equipment stored on the Site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Engineer to establish the City's title to such Materials or Equipment or otherwise protect the City's interest, including applicable insurance. No progress estimate or payment needs to be made when, in the Engineer's judgment, the increment in the estimated value of Work performed and Materials and Equipment furnished since the preceding estimate is less than Ten Thousand Dollars (\$10,000.00). Contractor will be paid on or before the twenty-fifth day following receipt of the approved estimate.

GC-38.3 Retention from Progress Payments

The amounts retained by the City from each progress payment shall be as follows:

- A. Withholding ten percent (10%) of the estimated value of the Work performed until the progress payments including retainage total fifty percent (50%) of the Agreement Price.
- B. After progress payments, including retainage, total fifty percent (50%) of the Agreement Price, no more retainage shall be withheld, provided that the Engineer determines that the Contractor is making satisfactory progress to ensure completion of the Work within the times specified therefor, and that the Contractor is performing the Work within the requirements of the Agreement Documents.
- C. Upon receipt of written request from the Contractor, the City may reduce retainage to the Contractor for payment of retainage to Subcontractors who have completed their Work. If such retainage is released, the Contractor shall furnish the City with an affidavit certifying that all monies due the Subcontractor have been paid. If the City determines that the released retainage has not been paid to the Subcontractor, the amount released shall be reinstated.
- D. The City may reinstate ten percent (10%) withholding if the Engineer determines that the Contractor is not making satisfactory progress to ensure completion of the work and all portion thereof within the times specified therefor, or if there is other specific cause for such withholding.

GC-38.4 Additional Payment Conditions

- A. The submission and approval of the Project Network Schedule and periodic updates thereof, as required by the Schedule requirements of the Special Conditions, shall be an integral part and basic element of the application upon which Progress Payments shall be made. The Contractor shall be entitled to Progress Payments only as determined from the currently approved and updated schedule.
- B. The Contractor shall promptly pay each Subcontractor upon receipt of payment from the City, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to their Subcontractors in similar manner.
- C. The City may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the City on account of Work done by such Subcontractor.
- D. Neither the City nor the Engineer shall have any obligation to pay or to see to the payment of any Subcontractor, except as may otherwise be required by law.
- E. No certification of Progress Payment (any progress payment), or any partial or entire use or occupancy of the Project by the City, shall constitute an acceptance of any Work not fully in accordance with the Contract Documents.
- F. Any and all funds paid to Contractor pursuant to the City-Contractor Agreement are hereby declared to constitute trust funds in the hands of Contractor, to be applied first to the payment of claims of Subcontractors, laborers, and Suppliers arising out of the Work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety and other bonds and on insurance, before application to any other purpose. Whenever required by the Engineer, it shall be the duty of Contractor to file with the Engineer a verified statement, in form satisfactory to the Engineer, certifying the amounts then due and owing from Contractor for labor and materials, setting forth therein the names of the person whose charges or claims for labor or materials are unpaid, and the undisputed amount due to each respectively.
- G. No payments made hereunder by City to Contractor prior to Final Payment shall be deemed conclusive as to the actual value of the Work performed by Contractor or of Contractor's performance of the Agreement.
- H. City reserves the right to issue any Progress Payment and Final Payment by check jointly to Contractor and any Subcontractor or Supplier at City's option.

- I. Should the City fail to issue any Progress Payment within sixty (60) days of approval of an acceptable monthly estimate of Work performed and Materials furnished, annual interest on the payment amount may accrue at the Prime Rate, plus one percent.
- J. The Prime Rate shall be based on that published in the *Wall Street Journal* on the first business day of January or June, whichever has most recently passed, of the current year. This clause shall supersede the Georgia Prompt Payment Act and any modifications or successors to it. Nothing stated herein shall invalidate any other conditions of Progress Payment approval.

GC-38.5 Payments Withheld

- A. The City may decline to approve payment and may withhold any payment, in whole or in part, to the extent necessary to reasonably protect the City from loss because of:
 - 1. Defective Work not remedied;
 - 2. Third party claims filed or reasonable evidence indicating probable filing of such claims;
 - 3. Failure of the Contractor to make payments properly to Subcontractors, or for labor, Materials or Equipment;
 - 4. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Agreement Price;
 - 5. Damage to the City or another contractor;
 - 6. Reasonable evidence that the Work will not be completed within the Agreement Time;
 - 7. Persistent failure to carry out the Work in accordance with the Agreement Documents;
 - 8. Failure of the Contractor to fully comply with the Schedule requirements of the Special Conditions;
 - 9. Failure to comply with insurance and safety requirements; or
 - 10. Failure to keep current "As-Built" Records.
- B. When the grounds in Paragraph GC-38.5 A., above are removed, payment shall be made for amounts withheld because of them.

GC-39 SUBSTANTIAL COMPLETION ("Substantial Completion")

GC-39.1 Certificate of Substantial Completion

When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the City, is Substantially Complete as defined in Paragraph GC-3, the Contractor shall prepare for the Engineer a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Agreement Documents. When the Engineer, on the basis of an inspection, determines

that the Work or designated portion thereof is Substantially Complete, they will then prepare a Certificate of Substantial Completion of the Work which shall establish the Date of Substantial Completion of the Work, shall state the responsibilities of the City and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance and shall fix the time within which the Contractor shall complete the items listed therein. The Certificate of Substantial Completion of the Work shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

GC-39.2 Retainage Adjustment

Upon Substantial Completion of the Work or designated portion thereof, and upon application by the Contractor and approval by the Engineer, the City shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Agreement Documents and in accordance with the City-Contractor Agreement.

GC-39.3 Warranty Commencement

Warranties required by the Agreement Documents shall commence on the Date of Final Completion of the Project or designated portion thereof unless otherwise provided in the certificate of Substantial Completion of the Work or designated portion thereof.

GC-39.4 Waiver of Claims

The acceptance of Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the application for payment for the Substantial Completion payment, and except for the retainage sums due at final acceptance.

GC-40 FINAL PAYMENT ("Final Payment")

GC-40.1 Certificate for Final Payment

Following the Engineer's issuance of the certificate of Substantial Completion of the Work or designated portion thereof, and the Contractor's Completion of the Work, the Contractor shall forward to the Engineer a Written Notice that the Work is ready for final inspection and acceptance, and shall also forward to the Engineer a final Application for Payment. Upon receipt, the Engineer will make the necessary evaluations. When the Engineer finds the Work acceptable under the Agreement Documents and the Agreement fully performed, the Engineer will issue a certificate for Payment that will approve the Final Payment due the Contractor.

GC-40.2 Final Payment Conditions

Neither the Final Payment nor the remaining retainage shall become due until the Contractor submits to the Engineer:

1. An affidavit that all payrolls, bills for Materials and Equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied;
2. Consent of surety, if any, to Final Payment;
3. Clear title for all vehicles and/or trailers, if any, to remain as City property;
4. Complete set of as-built record Drawings;
5. Documentation for all state sales taxes paid by Contractor including completed State Department of Revenue Refund forms and all necessary back up documentation required by the Department of Revenue;
6. If required by the Engineer or City, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the Engineer or City. If any Subcontractor refuses to furnish a release or waiver required by the Engineer or City, the Contractor may furnish a bond satisfactory to the City to indemnify the City against any such loss. If any lien or indebtedness remains unsatisfied after all payments are made, the Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such lien, or other indebtedness including all costs and reasonable attorneys' fees; and
7. As a condition of Final Payment on the Project, the Contractor shall, prior to final payment, complete and submit to the City, all of the invoice documentation and the State of Georgia Revenue Department forms required to obtain the sales tax refund on all applicable equipment expenditures. This submittal shall include the certified forms and auditable back-up necessary to substantiate the expenditures for State refund.

GC-40.3 Waiver of Claims by City

The making of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the City except those arising from:

1. Unsettled liens and third party claims against the City or the Engineer;
2. Faulty or defective Work appearing after Substantial Completion of the Work;
3. Failure of the Work to comply with the requirements of the Agreement Documents;
4. Terms of any special warranties required by the Agreement Documents; or

5. Damages incurred by the City resulting from lawsuits brought against the City, the Engineer, or their agents, employees, or representatives because of actions or omissions on the part of the Contractor, his Subcontractors, Suppliers, or any of their employees, agents, or representatives.

GC-40.4 Waiver of Claims by Contractor

The acceptance of Final Payment shall, after the Date of Substantial Completion of the Project, constitute a waiver of all claims by the Contractor, except those previously made in writing and identified by the Contractor as unsettled at the time of the Final Application for Payment.

GC-41 CHANGES AND EXTRA WORK

GC-41.1 Authority For Changes

The Engineer may make changes in the Drawings or Specifications and in the quantities of Work to be done under the Agreement.

GC-41.2 Change Orders

Without invalidating the Agreement, the Engineer may at any time, or from time to time, by written order, order additions, deletions, or revisions in the Work. These will be authorized by Change Orders. Upon receipt of the Change Order, Contractor shall promptly proceed with the Work involved. If any price or scope of the Work or an extension or shortening of the Agreement Time is involved, an equitable adjustment will be made within the Change Order. In the event the Agreement Price is increased by Change Order, the penal amount of the Payment and Performance Bonds shall be increased as provided for in Appendix B. All changes in the Work authorized by Change Order shall be performed under the applicable Conditions of the Agreement Documents.

GC-41.3 Written Notice

The Engineer may, at the request of Contractor, issue interpretations, clarifications and other instructions as to the intent of the Agreement Documents, in the form of Written Notices. The Engineer may also, at any time, make changes in the details of the Work by issuance of a Written Notice. Upon receipt of such a Written Notice containing interpretations clarifications and other instructions, Contractor shall proceed with the Work and comply with the Written Notice unless Contractor believes that such Written Notice entitles him to a Change in Agreement Price or Time or both.

Should Contractor believe that such Written Notice entitles him to change in Agreement Price or Time, or both, he shall give the Engineer notice in writing thereof within seven (7) days after receipt of the Written Notice. Thereafter within thirty (30) days, Contractor shall document the basis for the change in Agreement Price or Time. The Engineer shall render a timely, written decision on the Contractor's request for a change in Agreement Price or Time. Should the

Engineer determine that the Contractor is not entitled to a change in Agreement Time or Price, the Contractor shall proceed as directed upon receipt of the Engineer's decision. Failure to proceed shall constitute a breach of Agreement and shall be a cause for the termination of the Agreement. Request for a Change Order arising out of a Written Notice will not be considered without the attachment thereto of a copy of the referenced Written Notice. No claim by Contractor will be allowed if asserted after Final Payment under this Agreement.

GC-41.4 Extra Work

Extra Work consists of new and unforeseen Work determined by the Engineer not to be covered by any of the various items for which there is a proposal price or by combination of such items.

GC-41.5 Variation In Quantities

Wherever the estimated quantities of work to be done and materials to be furnished under this Agreement are shown in any of the documents including the Bid, they are given for use in comparing proposals and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by City to complete the Work contemplated by this Agreement, and such increase or diminution shall in no way vitiate this Agreement, nor shall any such increase or diminution give cause for claims or liability for damages.

GC-42 CHANGE ORDERS

GC-42.1 General

The Agreement Price may only be changed by a Change Order. Each change will be set forth in a Change Order prepared by the Engineer and approved by City. Change Order will specify (a) all additional work to be done and work to be omitted, if any, in connection with the change; (b) the basis of compensation to the Contractor for additional or omitted work; and (c) any adjustment of the time of completion of the Work. If the Engineer determines that a change requiring additional Work will cause delay in completion of Work, the Engineer will grant an equitable time extension for the changed Work, or a subsequent Change Order may be issued at such time as the extent of such delay can be determined.

Upon receipt of a Change Order, Contractor shall comply therewith and perform each item of Work set forth therein, furnishing all labor, Material, and Equipment necessary therefor, in the same manner as if such Work were originally included in the Agreement. In the absence of a Change Order, Contractor shall not be entitled to payment or an extension of the time of completion on account of any changes made.

GC-42.2 Methods Of Payment

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Agreement Price shall be determined by the following method which is most advantageous to City, as determined by the Engineer:

- A. Where the Work involved is covered by unit prices contained in Agreement Documents, by application of unit prices to the quantities of the items involved;
- B. By mutual acceptance of a lump sum, based on a detailed breakdown of anticipated costs plus Contractor's fee for overhead, small tools, and profit. The Contractor and all Subcontractors shall be entitled to the same fees as specified in Section GC-42.2 C. and GC-42.3 E; or
- C. On the basis of the actual cost of the Work plus a Contractor's fee for overhead, small tools and profit. This method of payment is herein referred to as Force Account Work, and is further described in GC-42.3. Contractor's fee for Force Account Work performed by his own forces shall be twenty percent (20%) for direct labor and payroll burdens; five percent (5%) for all purchased material; and Contractor's fee for subcontracted work shall be as defined in Section GC-42.3 E.

GC-42.3 Force Account Work

When authorized by a Change Order, Contractor may perform Work on a Force Account basis and will be paid actual costs and a fee for properly allocated charges which may include labor, bond premium, supplies and Materials, Equipment and subcontract billings, incurred in the performance of such Force Account Work as more particularly described below:

- A. Labor: For all labor and for foremen in direct charge of the specific operations, Contractor shall receive the actual rate of wage in effect at the time the Force Account Work is performed for each and every hour that said laborer and foreman are actually engaged in such Work. Said agreed rate shall be no higher than that regularly paid the employee. A foreman shall not be used where there are fewer than two (2) laborers employed, except with the written consent of the Engineer. Contractor shall receive the actual costs paid to or in behalf of workmen, by reason of fringe benefits, including but not limited to, social security contribution, unemployment, excise and payroll taxes, workmens' compensation, health and retirement benefits, sick leave, vacation and holiday pay. Expenses of working after hours, on holidays or on Saturdays and Sundays, shall be included to the extent authorized by the Engineer. Subsistence and travel allowance where required by collective bargaining agreements shall be included.

The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.

- B. Bonds and Insurance: For bonds and insurance premiums or increases thereto necessitated by the Force Account Work, Contractor shall receive the actual cost to which no percent shall be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.
- C. Materials: For materials accepted by the Engineer and used as an integral part of the finished Work, Contractor shall receive the actual cost of such Materials delivered on the Work, including transportation charges paid by him, exclusive of machinery rentals as hereinafter set forth.
- If Materials are procured by Contractor by a method that is not a direct purchase from and a direct billing by the actual Supplier, the cost of such Material shall be deemed to be the lowest current wholesale price at which such Materials available in the quantities concerned and delivered to the site of the Work.

For other Materials used in the construction that are not an integral part of the finished Work, such as, but not limited to, sheeting, false Work and form lumber, Contractor shall be reimbursed in the amount agreed upon by the Engineer before such Work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

- D. Equipment: Contractor will be paid for the use of Contractor owned or rented Equipment at seventy percent (70%) of the suggested monthly rental rates listed for such Equipment in the Rental Rates for Construction Equipment Blue Book (published by Data Quest), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the Force Account Work. Hourly rental rates shall be calculated by dividing the listed monthly rates as modified above by 176 hours. The rental rate for Equipment used in excess of eight (8) hours per day, shall be at the rate of fifty percent (50%) of the hourly rates as calculated above. The rental rates for standby Equipment, when authorized by the Engineer, shall be at the rate of fifty percent (50%) of the hourly rate for Equipment in use eight (8) hours per day. No payment of rentals for standby Equipment will be made for more than eight (8) hours per working day and no payment will be made for weekend days or holidays. If it is deemed necessary by Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, Contractor shall furnish the necessary cost data and paid invoices to the Engineer for his use in establishment of such rental rate(s). Equipment must be in good operating condition. The rental rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Equipment operators will be paid for as stipulated in subparagraph (A) of Clause GC-42.3.

The rental time to be paid for Equipment on the Work site shall be the time the Equipment is required for the Force Account Work being performed. The time

shall include the time required to move the Equipment to location of the Force Account Work and return it to the original location or to another location, requiring no more time than that required to return it to its original location. Moving time will not be paid for if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Loading and transporting costs will be allowed, in lieu of moving time, when the Equipment is moved by means other than its own power. No payment for loading and transporting will be made if the Equipment is used at the site of the Force Account Work on other than such Force Account Work. Compensation will not be allowed while Equipment is inoperative due to breakdown.

For the use of Equipment moved in on the Work and used exclusively for Work paid for on a Force Account basis, providing the Engineer has agreed to said move, Contractor will be paid the Equipment use rates provided for in this clause, for the cost of transporting the Equipment to the location of the Work and its return to its original location, and for the cost of loading and unloading the Equipment, all in accordance with the following provisions:

1. The cost of transporting Equipment shall not exceed the applicable minimum established rates by the State of Georgia Public Service Commission.
2. The Equipment use period shall begin at the time the Equipment is unloaded at the site of the Force Account Work, shall include each day that the Equipment is at the site of the Force Account Work, excluding Saturdays and Sundays and other legal holidays unless the Force Account Work is performed on such days, and shall terminate at the end of the day on which the Engineer instructs Contractor to discontinue the use of such Equipment. The maximum time to be paid per day will not exceed eight (8) hours unless the Equipment is in operation for a longer time.

E.Subcontract Work: Where the Change Order applies to Work being performed under a subcontract, reimbursement, including fee for small tools, overhead and profit for the Subcontractor's Work performed on a Force Account basis shall be computed in precisely the same manner as if performed by Contractor as indicated in GC-42.2 C. One additional allowance of five percent (5%) of the Subcontractor's total costs will be granted to Contractor for overhead and profit regardless of the tier of the Subcontractor.

If the Subcontractor elects to contract out Change Order Work to a third (or lower) level contractor or Supplier of purchased Equipment, he shall not be entitled to fees, overhead or profit for such third (or lower) level work or Materials.

The City reserves the right to direct the Contractor to contract directly with third (or lower) level subcontracts and Suppliers of purchased Equipment in order to avoid paying multiple fees, overhead and profit for such third (and lower level) Subcontractors and Suppliers of purchased Equipment.

If similar work is not being performed at the Work site, and if required by City, Contractor shall obtain three (3) competitive proposals for the requirements of the Change Order and the Agreement Documents from Subcontractors acceptable to the Engineer. Selection of the Subcontractor shall be subject to the approval of the Engineer and the City.

F. Compensation: The compensation as set forth above shall be received by Contractor as payment in full for Work done on a Force Account basis. At the end of each day, Contractor's Representative and Inspector shall compare records of the Work performed including classification of all laborers, ordered on a Force Account basis.

G. Statements: No payment will be made for Work performed on a Force Account basis until Contractor furnishes the Engineer itemized statements of the cost of such Force Account Work detailed as to the following:

1. Labor - name, classification, date, daily hours, total hours, rate, and extension of each laborer and foreman;
2. Equipment - size, type, identification number, dates, daily hours, total hours, rental rate, and extension of each unit of machinery and Equipment;
3. Materials - quantities of supplies and Materials, prices, including transportation cost and extensions;
4. Bonds and insurance premiums;
5. Subcontract Work - Force Account detail as above, or progress quantities and prices of unit price or lump sum subcontracts; and
6. Payment for items under paragraphs (A) to (F) inclusive, shall be conditioned upon Contractor's presentation of original receipted invoices for Materials used and transportation charges. If, however, the materials used in the Force Account Work are not specially purchased for such Work but are taken from Contractor's stock, then in lieu of the original invoices, the statements shall contain or be accompanied by an affidavit of Contractor which shall certify that such Materials were taken from his stock, that the

price and transportation of the Material as claimed represent actual cost.

- H. If, in the City's opinion, Contractor or any of his Subcontractors, in performing Force Account Work, are not making efficient use of labor, Material, or Equipment and/or are proceeding in a manner which is expensive to City, the Engineer may request the Contractor to make more efficient use of labor, Material and Equipment. Contractor shall in good faith comply with such requests as are reasonable. If the Contractor fails to comply with such requests, the Engineer may independently determine the reasonable cost of the Work and the Contractor will be entitled only to the reasonable cost so estimated by the Engineer.

GC-42.4 Lump Sum Change Order Work

Contractor shall prepare an estimate of all extra and deleted Work as described by Written Notice, using established unit prices where they are stated in the Bidding Document. Estimates for Labor, Bonds and Insurance, Materials, and Equipment required shall otherwise be based on the provisions set forth in GC-42.3 A, B, C, and D, above.

GC-42.5 Change Orders Limited

Except as provided in GC-41 and GC-42, no order, statement or conduct of the Engineer shall be treated as a "Change Order" or entitle the Contractor to any adjustment hereunder of the Agreement Price or Agreement Time.

GC-42.6 No Work Stoppage

Nothing in this Article shall excuse the Contractor from proceeding with the Agreement as changed.

GC-42.7 Agreement Amendment

The amount payable to the Contractor under the Agreement, the Agreement Time, and the date required for performance of any part of the Work may be changed only by a Change Order to the Agreement.

GC-43 DISAGREEMENT WITH ORDERS FOR CHANGE

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the Engineer in accordance with Clause GC-46 at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligations under Clause GC-42, Change Orders.

GC-44 CHANGED CONDITIONS

Contractor shall notify the Engineer in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed, in any event no later than five (5) calendar days:

- A. Subsurface or latent physical conditions at the site of Work differing materially from those indicated in this Agreement; or
- B. Unknown physical conditions at the site of the Work of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Agreement.

The Engineer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Agreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Agreement modified in writing in accordance with the provisions of Clause GC-41. If the Engineer determines that conditions of which he has been notified by Contractor do not justify an adjustment in compensation, he will so advise Contractor in writing. Should Contractor disagree with such determination, he may submit a notice of potential claim to the Engineer as provided in Clause GC-46.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required above; provided, however, the time prescribed therefor may be extended by the Engineer.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

GC-45 INVESTIGATION OF SUBSURFACE SITE CONDITIONS

Investigations of the subsurface conditions at the Project site were prepared in anticipation of this Project. These include logs of test holes, results of field and laboratory tests and similar materials. Data obtained in such investigations is available at the Designer's office for review during the bid preparation period. These reports are offered without guarantee or representation of such. The data obtained from these borings and investigations represent the character of the information gathered only on the day on which the borings were made and at the exact location at which they were made. They shall not, in and of themselves, be considered representations within the meaning of the clause GC-46. Similar conditions may or may not exist on or throughout the Project site, or any part of it. Other conditions may or may not be encountered, no guarantees are made or implied.

Opinions, conclusions, interpretations or deductions concerning subsurface conditions which may be expressed or implied in any of the Materials and data which are made available to the Contractor, or any matters contained therein of which the Contractor has, or reasonably should have, independent knowledge of, shall not be considered representations of subsurface conditions within the meaning of Clause GC-46. Under no circumstances will an Agreement adjustment in cost and/or time be made solely on the comparisons made or drawn from this data. The logs and data on test holes are not guaranteed to be indicative of any soil type, rock strata or water table levels in part or in whole. The Contractor is advised to exercise all care in performing their own investigation to develop information or confirm the available data.

GC-46 NOTICE OF CLAIM

GC-46.1 Time Limit

No claim by the Contractor against the City for additional compensation or other injury or damage shall be valid unless a notice of claim is filed with the Engineer and the City within ten (10) days after occurrence of the event upon which the claim is based, and, in addition, unless a detailed written statement of claim, as required by GC-46, accompanied by vouchers and other supporting data, shall have been filed with the City and the Engineer by the Contractor within thirty (30) days after the occurrence of said event.

GC-46.2 Identification

Any notice of claim must clearly identify the event that is relied upon, contain a clear statement of why it constitutes a basis for additional compensation and must contain a clear statement that the document constitutes a "Notice of Claim."

GC-47 STATEMENT OF CLAIM

The statement of claim shall include a clear, concise recital of the basis upon which the claim is asserted, including a designation of the provision or provisions in the Agreement Documents on which the claim is based and the amount of the claim. All costs, expenses and damages claimed shall be included in detail with complete supporting documentation and shall be accompanied by a sworn statement indicating that: (a) the individual executing said statement is personally familiar with the matters stated in the claim; (b) that the matters stated therein are based upon the terms of the Agreement Documents; (c) that the costs, expenses and damages claimed therein flow directly from the matters stated therein; and (d) that the costs, expenses and damages listed therein have not been otherwise included in the cost of the Work and are true, accurate and correct.

GC-48 DECISION OF CLAIMS

GC-48.1 Claim Review

Upon receiving a statement of claim, complying with the requirements of GC-46 and GC-47 and with the advice and assistance of the Engineer as appropriate, the City shall review the statement of claim submitted by the Contractor. In conducting this review, the Engineer shall have the right to require the Contractor to submit such additional or supporting documents, data and other information as the City and/or the Engineer may require, and the failure to submit such additional documents, data or other information within fifteen (15) days following written request shall be deemed a waiver of the claim. Upon completion of such review, to take place within thirty (30) days of receipt of the additional documents, data or other information as may have been required by the City and/or the Engineer, the City in consultation with the Engineer shall issue a written determination, and if it deems appropriate accept such parts of the claim as they find in good faith to be proper and, if the Contractor agrees, a Change Order shall be issued to amend the Agreement Price, the time for completion or either of them as may be found proper. If the Contractor disputes the determination made by the City, the Contractor as a condition precedent to any further action to resolve such dispute must notify the City and the Engineer in writing within five (5) days following receipt of the decision of the factual basis of such dispute and permit the City fifteen (15) additional days to reconsider and, if it deems it appropriate, issue a modified decision.

GC-48.2 No Waiver

Nothing contained in this section shall operate to limit or extinguish any right or defense of the City contained elsewhere in the Agreement Documents or available at law or in equity or constitute a waiver by the City of any right or defense otherwise available.

GC-48.3 Absolute Conditions Precedent

The failure of the Contractor to file any claim within the time limits prescribed herein or in the form or manner precisely as required hereby shall be deemed a material prejudice to the interests of the City and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

GC-49 MEASUREMENT AND PAYMENT

GC-49.1 Measurement

All items of Work to be paid for at Agreement Prices per unit of measurement will be measured or certified by the Engineer.

GC-49.2 Payment at Agreement Prices

The Agreement prices for items of Work shall include full compensation for all costs of items, including the costs for any Work, Materials and Equipment incidental to the items but not specifically shown or described in Agreement Drawings and Specifications, subject only to such express limitations as may be stated in the Specifications defining the items or prescribing payment thereof.

GC-50 HISTORICAL, SCIENTIFIC, AND ARCHEOLOGICAL DISCOVERIES

All articles of historical or scientific value, including, but not limited to, coins, fossils, articles of antiquity, which may be uncovered by Contractor during process of Work, shall become the property of City. Such findings shall be reported immediately to the Engineer who will determine the further operations of Contractor, the method of removal, where necessary, and the final disposition thereof.

GC-51 SEPARATE AGREEMENTS

GC-51.1 Separate Contractors

The City reserves the right to award other Agreements in connection with this Project. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his Work with theirs. If the proper execution of results of any part of Contractor's Work depends upon the work of another contractor, Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

GC-51.2 Cooperation

The City may perform additional work related to the Project by itself, or it may let other contract containing provisions similar to these. Contractor shall afford the other contractors who are parties to such contracts, the City, if it is performing the additional work itself, reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.

GC-51.3 Review of Separate Contractor's Work

If any part of the Contractor's Work depends for proper execution or results upon the work of the City or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the City's or separate contractor's work as fit and proper to receive the work, except as to defects which may subsequently become apparent in such work by others.

GC-51.4 Notice to Contractor

If the performance of additional work by other contractors of the City is not noted in the Agreement Documents prior to the execution of the Agreement, Written Notice thereof shall be given to Contractor prior to starting any such additional work.

GC-51.5 Damage to Separate Contractor

Should the Contractor wrongfully delay or cause damage to the work or property of any separate contractor, the Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the City or the Engineer on account of any delay or damage alleged to have been caused by the Contractor, the City shall notify the Contractor, who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the City or the Engineer arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the City for all attorneys' fees and court costs which the City has incurred.

GC-51.6 City's Right to Clean Up

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up or for accomplishing coordination, the City may clean up and carry out such work and charge the cost thereof to the contractors responsible therefor as the Engineer shall determine to be just.

GC-52 OFFICIAL NOT TO BENEFIT

No officer or employee of the City shall be permitted to participate in the performance of this Agreement or receive any benefit or compensation arising out of the performance of such Agreement, and any Agreement entered into by the City in which any officer or employee of the City shall be personally interested shall be void, and no payment shall be made thereon by the City or any officer thereof; but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit.

GC-53 BRIBES

A bribe or attempt to bribe any representative or officer of City by Contractor shall be considered as a breach of the Agreement in bad faith, and shall thus empower City to complete Work and deduct the entire cost thereof from any monies due or to become due Contractor under the Agreement.

GC-54 PRECONSTRUCTION CONFERENCE

Within twenty (20) days after delivery of the executed agreement by City to Contractor, but before issuance of Notice to Proceed, a conference may be held to review progress schedules, to review the insurance and safety program, to establish procedures for handling Shop Drawings and other submittals and for processing progress payments, and to establish a Working understanding between the parties as to the Project.

The Contractor shall submit to the City for approval, prior to the preconstruction conference, a preliminary schedule of Shop Drawing submittals, and certification of insurance as required by Appendix B.

GC-55 TIME OF COMPLETION AND LIQUIDATED DAMAGES

GC-55.1 Liquidated Damages (No Applicable for this Solicitation)

It is understood and agreed that the City will sustain substantial monetary and other injury and damages, including, but not limited to, increased costs, expenses and liabilities in the event of failure by the Contractor to perform its Work in accordance with the Completion and any Interim Milestone Date(s) set forth in Project Network Schedule prepared in accordance with the Special Conditions. Accordingly, should the Contractor not complete the Work, or any such portion thereof, within the date(s) required by the Project Network Schedule initially approved by the Engineer, as they may be adjusted pursuant to the Agreement Documents, then charges shall be assessed against any money due or that may become due the Contractor in accordance with the following schedule:

For Each delay in Substantial Completion of the entire Work: \$ 500/ day

For Each day of delay in Final Completion of the entire Work: \$ 500/ day

The amount of such charges is hereby agreed upon as fixed liquidated damages due the City after the expiration of the Agreement Date(s) for completion specified in the Project Network Schedule for the Work or portions thereof. The Contractor and its surety shall be liable for any liquidated damages in excess of the amount due the Contractor on the Final Payment.

GC-55.2 No Penalty

The fixed liquidated damages are not established as a penalty but are calculated and agreed upon in advance by the City and the Contractor due to the uncertainty and impossibility of making a determination as to the actual direct, incidental and consequential damages which are incurred by the City as a result of the failure on the part of the Contractor to complete the Work within the Agreement Completion Date(s) specified above. Liquidated damages shall start in accordance with the above schedule upon notification to the Contractor in writing that all apparent Agreement Time allowed to achieve the relevant Completion Date has been consumed. Liquidated Damages as they accrue will be deducted from periodic partial payments to the extent

they are sufficient to cover the liquidated damages owing; provided that any excess liquidated damages owing over the periodic partial payment amount may be deducted from retainage. Such deduction shall be in addition to the retainage provided for in the Agreement. The remaining amount of liquidated damages owing upon completion will be deducted from any amounts owing as Final Payment to the Contractor or his surety. Any excess amount owing as liquidated damages shall be paid upon demand.

GC-56 RIGHT TO AUDIT

The Contractor shall keep and maintain accurate books and records, and supporting data, documentation, correspondence, reports, instructions, Drawings, receipts, vouchers, and memoranda regarding performance of Work hereunder and including specifically, but without limitation, such information as estimates (pre and post bid), costs incurred, labor and Materials consumed, schedules and progress records and quality control. Such books and records shall be available for inspection, audit, and copying by the City or its authorized representative during the Work and for a period of three (3) years after Final Payment.

GC-57 MEDIATION OF DISPUTES

In the event of any controversy, claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof or otherwise in connection with the Project to which this Agreement pertains, which has not been otherwise resolved or waived pursuant to other conditions of the Agreement Documents (hereinafter referred to as the "dispute"), the parties shall, as an express condition precedent to commencing legal action against the other relating to or arising out of the dispute, endeavor to resolve the dispute utilizing the Disputes Review Board. The Disputes Review Board may recommend, if both parties agree, non-binding mediation conducted under Commercial Mediation Rules of the American Arbitration Association, or under such other rules as the parties may promptly agree to employ. Such mediation shall be held at the regional office of the American Arbitration Association located in Atlanta, Georgia, or at any other convenient location agreeable to the parties and the mediator.

GC-58 AGREEMENT ADMINISTRATION DOCUMENTS

A substantial number of documents will be required for the administration of the Agreement. Some of these documents are identified in this document and elsewhere in the Agreement Documents (such as Change Order forms) and others may not be. The Engineer shall have full power and authority to designate and prepare the documents to be used and the Contractor and all Subcontractors and Material Suppliers shall utilize the documents so prepared and provided to them by the Engineer and shall follow the instructions of the Engineer with respect thereto in all regards save and excepting only those documents, if any, which the Contractor reasonably determines contain terms or requirements contrary to or in addition to and not reasonably inferable from the terms of the Agreement Documents. If the Contractor believes that any form or other document provided by the Engineer under the authority of this Section is subject to rejection by the Contractor under the terms hereof, it shall notify the Engineer thereof within ten (10) days following his first receipt of the particular document or form giving specific reasons

why the document or form is entitled to rejection. Thereafter, the form or document will be withdrawn, amended, or utilized as the Engineer finds in good faith to be appropriate after reviewing the notice provided by the Contractor. All Agreement Administration Documents may be revised at any time by the Engineer.

GC-59 MISCELLANEOUS PROVISIONS

GC-59.1 Governing Law

The Agreement shall be governed by the law of the State of Georgia.

GC-59.2 Contingent Assignment

Effective as of any termination of the Agreement, Contractor hereby assigns to City all of the Contractor's interest in those subcontracts and purchase orders entered into by Contractor prior to termination which the City specifically requests by Written Notice. All Subcontractors and Purchase Orders shall provide that they are freely assignable by Contractor to the City and its assigns. City shall be at liberty to negotiate with and engage (for itself) any Subcontractors, Suppliers, or others that Contractor dealt with prior to termination.

GC-59.3 Rights and Remedies

- A. The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.
- B. No action or failure to act or to require in any one or more instances upon the strict performance of any one or more of the provisions of the Agreement Documents, or to exercise any right herein contained or provided by law by the City or the Engineer, shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, nor shall it be construed as a waiver of the right to subsequently demand strict performance or exercise such rights, and the rights shall continue unchanged and remain in full force and effect, except as may be specifically agreed in writing.
- C. The Contractor agrees that it can be adequately compensated by money damages for any breach of this Agreement which may be committed by the City and hereby agrees that no default, act, or omission of the City, or the Engineer, shall constitute a material breach of the Agreement entitling the Contractor to cancel or rescind the provisions of this Agreement or (unless the City shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. The Contractor hereby waives any and all rights and remedies to which it may otherwise be or become entitled, save only his right to money damages.

GC-59.4 Unenforceability of any Clause

If any clause of this Agreement is held as a matter of law to be unenforceable or unconscionable, the remainder of the Agreement shall be enforceable without such clause.

GC-59.5 Obligation to Perform

Contractor shall carry on the Work and adhere to the Progress Schedule during and notwithstanding all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and City may otherwise agree in writing.

GC-59.6 Labor Relations

Work on the Project may be performed by both union and nonunion separate contractors, Subcontractors, Suppliers, and other entities and persons. In the event of any strike, picket, sympathy strike, work stoppage, or other form of labor dispute at the Project whether directed at the Contractor, other separate contractors, Subcontractors, Suppliers or other persons, Contractor shall continue to perform its Work required hereby without interruption or delay. In the event the Contractor fails to continue its Work without interruption or delay, because of any or such events, the City, in addition to all other rights it has in the Agreement Documents and at law, may terminate the Agreement after giving Contractor forty-eight (48) hours written notice of its intent to do so for reason of Contractor's failure to perform. Additionally, if Contractor is party to one or more labor agreement, Contractor shall take all reasonable action to avoid any Work stoppage, and in the event of a work stoppage, Contractor shall within twenty-four (24) hours take all legal action permitted by such labor agreements or by law in order to expedite resumption of Work on this Project.

GC-59.7 Covenant Not to Sue

Should the City elect to terminate the employment of the Contractor for default as provided herein, then the Contractor covenants that it will not file any suit or proceeding of any kind against the City by reason thereof, until the City shall have either abandoned the Project or completed the Contractor's Work as required under the Agreement. If the Contractor should breach this "Covenant Not To Sue," then Contractor shall be liable to the City for all costs resulting to the City therefrom, including, without limitation, all attorneys' fees expended by the City in defending said suit or proceeding, unless a positive determination is made therein that the Contractor's termination by the City was motivated by fraud and bad faith and was without justification of any kind.

GC-60 STATEMENT OF NON-DISCRIMINATION

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances, City of Atlanta, and to warrant the following:

- a) The Contractor shall not discriminate against any employee, or applicant for employment, because of race, creed, religion, color, sex or national origin, marital status, physical handicap or sexual orientation. As used herein, the words "shall not discriminate" shall mean and include without limitation the following:
Recruited, whether by advertising or other means; compensate, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by the Compliance Officer setting forth the provisions of the non-discrimination clause.

- b) Contractor shall in all solicitation or advertisement for employees, placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for the employment without regard to race, creed, religion, color, sex, national origin, marital status, physical handicap or sexual orientation.
- c) Contractor shall send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor commitments under the Equal Employment Opportunity Program for the City of Atlanta and under this Ordinance, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. Contractor shall register all workers in the skilled trades who are below the journeyman level with the Bureau of Apprenticeship and Training.
- d) Contractor shall furnish all information and reports required by the Contract Compliance Officer pursuant to this Ordinance and shall permit access to the books, records, and accounts during the normal business hours of Contractor by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.
- e) Contractor shall take such action with respect to any subcontractor as the City may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the City, the City will enter into such litigation as is necessary to protect the interest of the City and to effectuate the Equal

Employment Opportunity Program of the City. In the case of contracts receiving federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.

- f) Contractor and his subcontractors, if any, shall file compliance reports at reasonable times and intervals with the City in the form and to the extent prescribed by the Contract Compliance Officer of the City of Atlanta. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and his Subcontractors.
- g) Contractor shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each Subcontractor or vendor.
- h) A finding, as hereinafter provided, that a refusal by Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
 - (1) Withholding from Contractor in violation all future payments under the involved public contract until it is determined that Contractor or Subcontractor is in compliance with the provisions of the Agreement;
 - (2) Refusal of all future bids for any public contract with the City of Atlanta or any of its departments or division until such time as the Contractor or Subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in this article;
 - (3) Cancellation of the public Agreement;
 - (4) In a case in which there is substantial or material violation, or the threat of substantial or material violation, of the compliance procedure therein set forth or as may be provided for by the contract, appropriate proceeding may be brought to enforce those provisions, including the enjoining, within applicable laws, of contractors, Subcontractors, or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

GC-61 EQUAL BUSINESS OPPORTUNITY (EBO)

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1441 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity (“EBO”) Program and to warrant the following:

The Consultant agrees to make good faith efforts to meet the goals for this Agreement by making available opportunities for Minority Business Enterprises (“MBE”), African American Business Enterprises (“AABE”), Hispanic Business Enterprises (“HBE”), Asian Business Enterprises (“ABE”), Native American Business Enterprises (“NABE”), and Female Business Enterprises (“FBE”), for utilization in the Work set forth within this Agreement, and shall take the following actions as part of its good faith efforts:

1. Notification to MBEs and FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the MBEs’ and FBEs’ responses.
2. Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contacted and action taken with respect to each such Agreement.
3. Dissemination of the Contractor's EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news media and by notifying and discussing it with all Subcontractors and Suppliers.
4. Specific and continuing personal (both written and oral) recruitment efforts directed at MBE and FBE Contractor organizations, MBE and FBE assistance organizations.
5. Sub-division of the Agreement into economically feasible segments as practical to allow the greatest opportunity for participation by MBEs and FBEs.
6. Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases of material for as many MBE and FBE Subcontractors as possible.
7. Adoption of the Equal Business Opportunity Plan submitted in its response to the Invitation for Bids or Requests for Proposals obligations under this Agreement, as approved by the Office of Contract Compliance.
8. Submission of monthly reports on the forms and to the extent required by the Director of the Office of Contract Compliance, to be due on the last day of each month following the award of the Work set forth in this Agreement.

9. The Contractor further agrees that its breach of the EBO provisions contained herein shall subject it to any or all of the following penalties:
- a) Withholding of ten per cent (10%) of all future payments under the involved eligible project until it is determined that the Contractor is in compliance;
 - b) Withholding of all future payments under the involved project until it is determined that the Contractor is in compliance;
 - c) Refusal of all future bids or offers for any eligible project with the City of Atlanta or any of its departments or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the EBO provisions contained herein; and
 - d) Cancellation of the eligible project.

GC-62 WAGE RATES AND REPORTING PROCEDURES

GC-62.1 Certified Payrolls

The Contractor shall maintain accurate payroll records and be prepared to submit certified copies for the prime contractor and all subcontractors. Payrolls reporting an employee for the first time must contain the complete name, address, and social security of the employee.

GC-62.2 Submittals

All required payrolls shall be submitted to the Office of Contract Compliance. Any questions concerning these submittals can be addressed:

Office of Contract Compliance
55 Trinity Avenue, Suite 1700
Atlanta, Georgia 30303
(404) 330-6010

GC-62.3 Wage Requirements

Contractors shall pay the prevailing wages as stipulated by the wage scale(s) which are incorporated in Exhibit C. Such scale of wages to be paid shall be posted by the Contractor in a prominent and easily accessible place at the site of Work.

GC-63 TECHNICAL MANUALS

These manuals are operator and shop maintenance instructions which enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data which provide positive identification for an item of the complete equipment without reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.

GC-63.1 Preparation Instructions

A technical manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all Equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime supplier or those purchased by the prime supplier from other sources and assembled in the finished end item.

GC-63.2 Contents of Technical Manuals

The contents of complete set of technical manuals shall include, at a minimum, of the following:

- (a) Table of Contents;
- (b) Operating instructions;
- (c) Preventive maintenance, service, and corrective maintenance or repair instructions;
- (d) Parts list with recommended quantity; and
- (e) Approved Shop Drawing(s).

GC-63.3 Binding and Deliver

The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate the manufacturer's name, Agreement number, model number, and serial number of the unit or Equipment. Four (4) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

GC-64 TESTING LABORATORY SERVICES

GC-64.1 Scope

- A. From time to time during progress of the Work, the City may require testing to determine that materials meet the requirements of the Specifications. Testing will be done by a Lab designated by the City for specified field quality control. Such testing includes, but is not necessarily limited to:
 - 1. Cement;
 - 2. Aggregate;
 - 3. Concrete;
 - 4. Soil-cement;
 - 5. Asphalt;
 - 6. Steel and metals;
 - 7. Welding;
 - 8. Soil compaction; and
 - 9. Bituminous pavement.
- B. Requirements for testing may be described in various sections of these Specifications, where no testing requirements are described but the City decides that testing is required to demonstrate compliance with specified material or performance standards, the City may require testing to be performed under current pertinent standards for testing.
- C. Employment of a testing laboratory shall in no way relieve the Contractor of Contractor's obligation to perform Work meeting the requirements of the Agreement.
- D. The independent testing laboratory, except as specified, shall be selected and paid by the City for one passed test and this test shall not be included in the Contractor's proposal. The Contractor shall be responsible for notifying the City to schedule the testing.
- E. The Contractor shall pay directly for the services of the independent testing laboratory, approved by the City, for the following:
 - 1. Concrete mix design and
 - 2. Other materials and workmanship requirements specified in Divisions 2 through 12, unless otherwise specified.

GC-64.2 Laboratory Duties

- A. Cooperate with City and Contractor.
- B. Provide qualified personnel promptly.
- C. Perform specified inspections, sampling and testing of materials and methods of construction.

1. Comply with specified standards, ASTM, other recognized authorities and as specified.
 2. Ascertain compliance with requirements of Agreement Documents.
- D. Promptly notify City and Contractor of irregularity or deficiency of Work observed during performance of Work.
- E. Promptly submit three (3) copies [two (2) copies to City and one (1) copy to Contractor] of report of inspections and tests in addition to those additional copies required by the Contractor including:
1. Date issued;
 2. Project title and number;
 3. Testing laboratory name and address;
 4. Name and signature of inspector;
 5. Date of inspection or sampling;
 6. Record of temperature and weather;
 7. Date of test;
 8. Identification of product and Specification section;
 9. Location of Project;
 10. Type of inspection or test;
 11. Results of test; and
 12. Observations regarding compliance with Agreement Documents.
- F. Perform additional services as required.
- G. Laboratory is not authorized to:
1. Release, revoke, alter or enlarge on requirements of Agreement Documents and
 2. Approve or accept any portion of Work.

GC-64.3 Contractor Responsibilities

- A. Cooperate with laboratory personnel, provide access to Work and/or manufacturer's requirements.
- B. Provide to laboratory, preliminary representative samples, in required quantities, of materials to be tested.
- C. Furnish copies of mill test reports.
- D. Furnish required labor and facilities.
 1. To provide access to Work to be tested
 2. To obtain and handle samples at the site
 3. To facilitate inspection and tests
 4. Build or furnish a holding box for concrete cylinders or other samples as required by the laboratory.
- E. Notify laboratory sufficiently in advance of operation to allow for the assignment of personnel and schedules of tests.

- F. Copies of all correspondence between the Contractor and testing agencies shall be provided to the City.

GC-64.4 Quality Assurance

Testing, when required, will be in accordance with all pertinent codes and regulations and with procedures and requirements of the American Society for Testing and Materials (ASTM) or applicable association, society, etc. (SSPC, etc.)

GC-64.5 Product Handling

Promptly process and distribute all required copies of test reports and related instructions to ensure all necessary retesting or replacement of materials with the least possible delay in progress of the Work.

GC-64.6 Furnishing Materials

The Contractor shall be responsible for furnishing all materials necessary for testing.

GC-64.7 Code Compliance Testing

Inspections and tests required by codes or ordinances or by a plan approval authority, and made by a legally constituted authority, and made by a legally constituted authority, shall be the responsibility of and shall be paid for by the Contractor, unless otherwise provided in the Agreement Documents.

GC-64.8 Convenience Testing

Inspection or testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

GC-64.9 Schedule for Testing

A. Establishing Schedule

1. The Contractor shall by advance discussion with the testing laboratory determine the time required for the laboratory to perform its tests and to issue each of its finds, and make all arrangements for the testing laboratory to be on site to provide the required testing.
2. Provide all required time within the construction schedule.

- B. When changes of construction schedule are necessary during construction, coordinate all such changes of schedule with the testing laboratory as required.

GC-64.10 Test and Certification

- A. General: At a minimum, the following tests shall be performed and the following certifications provided:

1. Cement: Certified test results by cement manufacturer or by independent laboratory shall be furnished as required by the City.
2. Aggregate and Mortar Sand: Certified test results by aggregate producer or by independent laboratory shall be furnished as required by the City.
3. Concrete:
 - a. At least five (5) standard 6-inch cylinders shall be taken each day for each one hundred (100) cubic yard or fraction thereof for each class of concrete used;
 - b. The number of cylinders, the point of sampling, and the method of securing the samples shall be determined by the City;
 - c. The five (5) samples shall be taken to the testing laboratory for laboratory curing;
 - d. Two (2) of the laboratory cured samples shall be tested at seven (7) days, two (2) samples tested at twenty-eight (28) days; one (1) samples in reserve;
 - e. Test all concrete in accordance with ASTM C31-69, C39-71 and C-172;
 - f. Slump Tests:
 - (1) Perform slump tests on the mob in accordance with ASTM standards;
 - (2) One (1) slump test shall be performed for each twenty-five (25) cubic yards of concrete;
 - (3) More slump tests shall be performed if deemed necessary by the City;
 - g. Perform air entrainment tests in accordance with the following standards:
 - (1) Field test – ASTM C-173; and
 - (2) Laboratory Tests – ASTM C231.

B. Precast and Concrete Block for Buildings

1. Block and precast may be visually inspected on the site by the City.
2. The City reserves the right to have the concrete block tested by an independent laboratory.

C. Steel and Miscellaneous Metal: Reinforcing steel, structural steel and miscellaneous metal may be inspected visually on the site by the City.

D. Welding: One percent (1%) of all structural welds during construction shall be inspected either visually or by an independent laboratory as required by the City.

E. Compaction of Earthwork:

1. The compaction shall be tested by the City or by an independent laboratory.
2. The testing shall be performed in a manner in accordance with these Specifications.

F. Bituminous Concrete: The material testing for the bituminous concrete shall be performed by an independent laboratory as deemed necessary by the City.

GC-64.11 Taking Specimens

Unless otherwise provided in the Agreement Documents, all specimens and samples for tests will be taken by the testing laboratory or the City.

GC-64.12 Transporting Samples

The Contractor shall be responsible for transporting all samples, except those taken by testing laboratory personnel to the testing laboratory.

****END OF GENERAL CONDITIONS****

PART III
SCOPE OF WORK

EXHIBIT A

SCOPE OF WORK FOR:

FC-595, ADA Parking Lot Spatial Improvements at Various Locations

OBJECTIVE

The City of Atlanta (“City”), Department of Procurement (“DOP”) on behalf of the Department of Parks, Recreation and Cultural Affairs (“DPRCA”) is seeking a prime Contractor to make ADA improvements at four (4) City locations. The scope of work shall include asphalt removal, concrete installation, ADA ramp installations, curb-cuts, parking lot striping and ADA signage as outlined in the scope of services section of the aforementioned solicitation document.

BACKGROUND

The locations to be enhanced are as follows:

- ✓ **BESSIE BRANHAM RECREATION CENTER**, 2051 Brownwood Avenue, SE 30317
- ✓ **BOISFEUILLET JONES ATLANTA CIVIC CENTER**, 395 Piedmont Ave, NE 30308
- ✓ **CENTRAL PARK**, 336 Linden Ave, NE Atlanta, GA 30308
- ✓ **CYCLORAMA & CIVIL WAR MUSEUM**, 800-C Cherokee Ave, SE 30315

MINIMUM REQUIREMENTS

- A. On the shortest accessible route to the accessible entrance, the Bidder must provide all labor, materials, and resource to perform the scope that includes demolition and removal of existing asphaltic surfaces, compaction of sub-base, minor site grading and backfilling, installation of concrete walkways, installation of concrete parking spaces, installation of ADA curb-cuts and ADA ramps, installation ADA signage, installation parking lot stripes, and installation of concrete curbs to provide accessible parking designated as reserved for people with disabilities including van accessible spaces and standard spaces, as required per the site plans.
- B. Bidder must ensure that standard accessible spaces are a minimum of 96 inches wide and served by access aisles at least 60 inches wide.
- C. Bidder must ensure that van accessible spaces are a minimum of 96 inches wide and served by access aisles at least 96 inches wide.
- D. At all spaces designated as reserved for persons with disabilities, the Bidder must provide vertical signs with the International Symbol of Accessibility located such that they cannot be obstructed by parked vehicles.

- E. Bidder must provide an additional "Van-Accessible" sign located below the International Symbol of Accessibility, at van accessible spaces.
- F. Bidder must ensure that all spaces and access aisles for persons with disabilities are flat and level, with slopes and cross-slopes not exceeding 2% in all directions, and that their surfaces are firm, stable, and slip-resistant.
- G. If the parking facility does not serve a particular building or facility, the Bidder must provide accessible parking on the shortest accessible route to an accessible pedestrian entrance of the parking facility.
- H. If the parking facility serves a building with multiple accessible entrances or multiple buildings or facilities, the Bidder must provide dispersed parking spaces located on an accessible route closest to the accessible entrances.
- I. If the parking facility is a parking garage or otherwise has limitations on vertical clearances, the Bidder must provide minimum vertical clearance of 98 inches at the van accessible parking spaces and along at least one vehicle access route to such spaces from site entrances and exits.

END OF SCOPE OF WORK

APPENDIX A

OFFICE OF CONTRACT COMPLIANCE REQUIREMENTS



CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1700
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
(404) 330-6010 Fax: (404) 658-7359
Internet Home Page: www.atlantaga.gov

OFFICE OF CONTRACT COMPLIANCE
Hubert Owens
Director
howens@atlantaga.gov

05/10/2012

RE: Project No.: FC# 5965 – ADA Parking Lot Spatial Requirements at Various Locations

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance information is an integral part of every City of Atlanta bid. All Bidders are required to make efforts to demonstrate compliance with the program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract and afford all firms, including Small Business Enterprises (SBE) opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific SBE goals for this project and the SBE program reminders listed on page 7.

Additionally, as the City of Atlanta is developing its Small Business Enterprise database, bidders will be allowed to submit the names of companies that meet the size standards of the United States Small Business Administration Guidelines. [see 13 C.F.R. § 121.201 (and further explained in 13 C.F.R. §§ 121.104 through 121.107)]. These requirements may be accessed via the internet by visiting: <http://ecfr.gpoaccess.gov> and choosing "Title 13-Business and Credit" from the browse-able drop down field.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

The City of Atlanta looks forward to the opportunity to do business with your company.

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CITY OF ATLANTA
SMALL BUSINESS ENTERPRISE
POLICY STATEMENT

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis of size as it relates to revenue and number of employees. The purpose of the Small Business Enterprise Program is to ensure that the City of Atlanta has a robust race-neutral approach to promoting full and equal business opportunity for all persons doing business with the City of Atlanta, to promote commerce by assisting SBEs to actively participate in the City's procurement process, and ensure that the City of Atlanta utilizes programs that provide it with the best possible resources. SBE Goals for this project are set forth on page 6.

Implementation of SBE Policy

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for small businesses to compete for business as prime contractors, subcontractors and/or Suppliers. A Bidder is eligible for award of a City contract upon a finding by OCC that the Bidder has utilized good faith efforts to attract all businesses regardless of size. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the SBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the SBE Project Participation Plan must include all subcontractors to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta SBE or other acceptable certification number, and supplier id number.

For Suppliers, the Subcontractor Project Plan must include all suppliers to be utilized on the project, the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta SBE or other acceptable certification number, and supplier id number

Determination of Good Faith Efforts During Bid Process

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the requirement of section 2-1372 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following:

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit SBE1.
2. Outreach Efforts Documentation. Each Bidder shall submit with her/his Bid written documentation demonstrating the Bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified SBEs, as subcontractors or Suppliers on the Eligible Project. This information shall be set forth on Exhibit SBE2, which is included herein.
3. SBE Project Participation Plan. Each Bidder shall submit with her/his Bid a completed and signed SBE Project Participation Plan, which is included herein as Exhibit SBE3, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used during the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, certification number of each business, and any other information requested by the Office of Contract Compliance. In order for the Office of Contract Compliance to officially consider a firm to be an SBE firm, it must be certified by or have a certification application pending with the Office of Contract Compliance at the time of the proponent's bid submission.

OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the good faith efforts requirement of section 2-1372 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the SBE Project Participation Plan, and its review of other relevant facts and circumstances. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the good faith outreach practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified SBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified SBEs within the relevant NAICS Codes for such Eligible Project.

To determine whether a competitor that has failed to meet SBE goals may be awarded the contract, the city will determine whether the efforts the bidder made to obtain SBE participation were "good faith efforts." Efforts that are merely pro forma are not "good faith efforts" to meet the goals. In order to award a contract to a bidder that has failed to meet SBE contract goals, the Office of Contract Compliance will determine whether the bidder actively and aggressively made efforts to meet the City's SBE goals. A bidder making a good faith effort would consider a number of factors in negotiating with subcontractors, including SBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using SBEs is not in itself sufficient reason for a bidder's failure to meet the contract SBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from SBEs if the price difference is excessive or unreasonable. In determining whether a bidder has made good faith efforts, the Office of Contract Compliance will take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, the Office of Contract Compliance may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal but meets or exceeds the average SBE participation obtained by other bidders, the City may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. Competitors that fail to meet SBE goals and fail to demonstrate "good faith efforts" shall be deemed non-responsive to the city's SBE requirements and shall not be eligible to be awarded the contract.

Small Business Enterprise Program Bid/RFP Submittals

The Covenant of Non Discrimination, the Outreach Efforts Documentation, the SBE Project Participation Plan, and any other information required by OCC in the solicitation document must be completed in their entirety by each Proponent and submitted with the other required Bid/RFP documents in order for the Bid/RFP to be considered responsive. Failure to timely submit these forms, fully completed, will result in the Bid/RFP being considered as non-responsive, and therefore, excluded from consideration.

Monitoring Of SBE Policy

Upon execution of a contract with the City of Atlanta, the successful bidder's SBE Project Participation Plan will become a part of the contract between the bidder and the City of Atlanta. The SBE Project Participation Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the SBE Project Participation Plan. The failure of the successful bidder to provide the specific information by the specified date each month shall be sufficient cause for the City to evoke penalties as set forth in the City of Atlanta Code of Ordinances, Section 2-1373.

Implementation of EEO Policy

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

Monitoring of EEO Policy

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

The City of Atlanta will keep a running tally of actual gross receipts attributed to the SBE firms from the time of the contract award.

The City of Atlanta's Office of Contract Compliance, or its designee, will perform interim audits of gross receipts and contract payments to SBEs if applicable. The audit will review payments to SBE subcontractors to ensure that the actual amount paid to SBE subcontractors equals or exceeds the dollar amounts stated in the schedule of SBE participation.

First Source Jobs Program Policy Statement

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. The prime contractor is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact:

**Deborah Lum
Manager, One Stop Services
First Source Jobs Program
Atlanta Workforce Development Agency
818 Pollard Boulevard
Atlanta, GA 30315
(404) 658-6312**

Small Business Enterprise Goals for this Project

Project No.: FC# 5965 – ADA Parking Lot Spatial Requirements at Various Locations

The Small Business Enterprise goals for the trade categories listed in this project are:

35.0% SBE

Participation percentage shall be calculated by measuring the total dollar value of work provided by COA certified SBE subcontractors in any combination of scopes inclusive of, but not limited to: asphalt removal, concrete installation, ADA ramp installations, curb-cuts, ADA signage, and parking lot striping. These values will be measured against the total contract dollar value paid to the prime proponent. Subcontractor participation must be contemplated throughout the life of the contract agreement and include any miscellaneous modifications.

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the good faith efforts requirement of section 2-1372 on such Eligible Project. Details of the OCC review process for determination of non-discrimination are detailed on pages 2 and 3 of this document.

Small Business Enterprise Program Reminders

1. Subcontractor Certification. It is the prime contractor's responsibility to verify that SBEs included on their SBE Project Participation Plans are certified with the City of Atlanta's Office of Contract Compliance by filing with OCC a self-certification form or a letter or other documentation from the United States Small Business Administration that establishes that the firm qualifies as an 8(a) firm or HUBZone firm.
2. Reporting. The successful bidder must submit monthly SBE participation reports to the Office of Contract Compliance.
3. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
4. SBE Ordinance. The SBE Program is governed by the provisions of the SBE Ordinance set forth in the City of Atlanta Code Division 9 section 2 - 1356 through 2 -1377. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
5. Supplier Participation. In order to receive full SBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.

COVENANT OF NON-DISCRIMINATION

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of a firm's revenue or employee size with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms SBE-2 and SBE-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

Signature of Attesting Party

Title of Attesting Party

On this _____ day of _____, 20____, before me appeared _____, the person who signed the above covenant in my presence.

Notary Public

Seal

FORM SBE-1

SUBCONTRACTOR CONTACT FORM

List ALL subcontractors or suppliers (Both SBE and Non-SBE Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Business Ownership Code: SBE - Small Business Enterprise,

Company Name: _____ Project Name: _____ FC#: _____

Signature: _____ Date: _____

(Please Print Signature)

***Note: COA M/FBE certification or DBE Certification does not count for SBE program goals. Firms Must Be Certified as SBE by COA OCC

EQUAL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN SUBCONTRACTOR/SUPPLIER UTILIZATION

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NIAC Code	Type of Work to be Performed	Ethnicity of SBE Ownership	SBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

List ALL subcontractors/suppliers (Certified and Non-certified) including lower tiers, to be used on this project.

Total SBE% _____

(***Note: EBO or DBE certification does not qualify for SBE projects. Proponents must provide copies of subcontractors current certification)

Proponent's Co. Name: _____ Project Name: _____ FC#: _____

Proponent's Contact Number: _____ Signature: _____ Date: _____
(Please Print)

FIRST SOURCE JOBS PROGRAM POLICY STATEMENT

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. The prime contractor is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact Deborah Lum of the Atlanta Workforce Development Agency at (404) 658-6312. This City of Atlanta program is not included in or enforceable through 49 CFR Parts 23 and 26.

FIRST SOURCE JOBS INFORMATION FORM

Company Name: _____

FC Number: _____

Project Name: _____

The following entry-level positions will become available as a result of the above referenced contract with the City of Atlanta:

1.

2.

3.

4.

5.

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program.

Company Representative: _____

Phone: _____

FORM 4

THIS AGREEMENT REGARDING THE USE OF THE FIRST SOURCE JOBS PROGRAM BY CONTRACTORS WITH THE CITY OF ATLANTA TO FILL ENTRY LEVEL JOBS is made and entered into by _____

This _____ day of _____, 201__.

The City of Atlanta requires the immediate beneficiary or primary contractor for every eligible project to enter into a First Source Jobs employment agreement. The contractor agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs Created by the eligible project will be the First Source Program.
- The contractor will make every effort to fill 50% of the entry level jobs created by this eligible project with applicants from the First Source Program.
- The contractor shall make good faith effort to reach the goal of this employment agreement.
- Details as to the number and description of each entry level job must me provided with the bid.
- The contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.
- The contractor as a condition of transfer, assignment or otherwise shall require the transferee to agree in writing to the terms of the employment Agreement.

Upon a determination that a beneficiary or contractor has failed to comply with the terms of this Agreement, the City may impose the following penalties based on the severity of the non-compliance:

- The City of Atlanta may withhold payment from the contractor.
- The City of Atlanta may withhold 10 percent of all future payments on the contract until the contractor is in compliance
- The City of Atlanta may refuse all future bids on city projects or applications for financials assistance in any form from the City until the contractor demonstrated that the First Source requirements have been met, or cancellation of the eligible project.
- The City of Atlanta may cancel the eligible project.

All terms stated herein can be found in the City of Atlanta Code of Ordinances Sections 5-8002 through 5-8005.

The undersigned hereby agrees to the terms and conditions set forth in this agreement.

Contractor

FORM 5

APPENDIX B

INSURANCE REQUIREMENTS

**APPENDIX B
INSURANCE & BONDING REQUIREMENTS
FC-5965 ADA Parking Lot Spatial**

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-,
- ii) Best's Financial Size Category not less than Class IX, and
- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.

- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

Enterprise Risk Management
68 Mitchell St. Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta

coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Accord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management at 68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements Form CG 20 26 07 04 or equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subcontractor/Consultants/sub consultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

11. Task Order

Evidence of compliance with insurance requirements must be provided on a Task Order basis prior to the issuance of any Notice to Proceed.

B. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :

Workers' Compensation. **Statutory**

Employer's Liability:

Bodily Injury by Accident/Disease	\$500,000 each accident
Bodily Injury by Accident/Disease	\$500,000 each employee
Bodily Injury by Accident/Disease	\$500,000 policy limit

C. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- ☒ Contractual Liability
- ☒ Broad Form Property Damage
- ☒ Premises Operations
- ☒ Personal Injury
- ☒ Medical Expense
- ☒ Independent Contractor/Consultants/Subcontractor/Consultants
- ☒ Products – Completed Operations
- ☒ Additional Insured Endorsement* (primary& non-contributing in favor of the City of Atlanta)
- ☒ Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- ☒ Owned, Non-owned & Hired Vehicles
- ☒ Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

E. Property Coverage/Inland Marine

Contractor/Consultant shall procure and maintain all risk property coverage in an amount equal to replacement value for all equipment, furniture, fixtures, machinery and/or personal property.

F. Performance Bond and Payment Bond

Contractor/Consultant shall furnish a Payment Bond and a Performance Bond to the City in an amount equal to **100 percent of the total contract value** and for the duration of the entire term.

The person executing the Bonds on behalf of the surety shall file with the Bonds a general power of attorney unlimited as to amount and type of bonds covered by such power of attorney, and certified by an official of said surety.

End of Document

EXHIBIT A
REQUIRED SUBMITTALS

AUTHORIZATION TO TRANSACT BUSINESS

If the successful Bidder is a corporation or corporations combined to form a joint venture, before the Agreement is executed, the corporation or the members of the joint venture team must submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia. The City reserves the right to request this evidence anytime during the procurement process.

BID BOND

STATE OF GEORGIA
COUNTY OF FULTON

KNOW ALL MEN BY THESE PRESENTS, that we, _____, as Principal, and _____, as Surety, are held and firmly bound unto the City of Atlanta, Georgia in the sum _____ Dollars (\$ _____) lawful money of the United States of America, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal was submitted to the Owner a Bid for **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)**.

NOW, THEREFORE, the conditions of this obligation are such that if the Bid be accepted, the Principal shall, within ten (10) days after receipt of conformed Agreement Documents, execute a Agreement in accordance with the Bid upon the terms, conditions and prices set forth therein, and in the form and manner required by the Agreement Documents and execute sufficient and satisfactory separate Performance and Payment Bonds payable to the Owner, then this amount of five percent (5%) of the total bid amount in form satisfactory to the Owner, then this obligation shall be void; otherwise, it shall be and remain in full force and effect in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the aforesaid Owner, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

This bond is given pursuant to and in accordance with the provision of O.C.G.A. Section 13-10-1 and 36-82-101 *et. Seq.* And all the provisions of the law referring to this character of bond as set forth in said Sections or as many be hereinafter enacted and these are hereby made a part hereof to the same extent as if set out herein in full.

IN WITNESS WHEREOF, the said Principal has hereunder affixed its signature and seal, and said Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this _____ day of _____, 20__.

Bid Bond
Page 2

Resident agent in state in which Work is to be performed:

Name:

Address:

Phone:

Fax:

(Required Submittal)

BID GUARANTEE

BID BOND OF INSURER MAY BE USED

SUBMIT POWER OF ATTORNEY FROM AGENT

BID DOCUMENTATION

--Certification--

THE UNDERSIGNED HEREBY CERTIFIES THAT THE BID DOCUMENTATION CONTAINED HERIN CONSTITUTES ALL THE INFORMATION USED IN PREPARATION OF THE BID AND THAT I HAVE PERSONALLY EXAMINED THESE CONTENTS AND HAVE FOUND THAT THIS BID DOCUMENTATION IS COMPLETE.

BY: _____

TITLE: _____

FIRM: _____

ADDRESS: _____

TELEPHONE NO. _____

FAX NO. _____

DATE: _____

STATEMENT OF BIDDER'S QUALIFICATIONS

This Statement is to accompany Bids submitted for the following project: **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)**

1. NAME OF BIDDER: _____
2. BUSINESS ADDRESS: _____

3. TELEPHONE NUMBER: _____
4. FACSIMILE NUMBER: _____
5. OFFICIAL REPRESENTATIVE AND TITLE: _____

Sworn to and subscribed
Before me this ____ day
Of _____,
20____.

Notary Public

Date: _____

Firm Name: _____

By: _____

Title: _____

AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Personally appeared before the undersigned, _____ who on oath, says that he/she is _____ and, in such capacity, is authorized to sign this Affidavit, and says on oath that, has submitted to the City of Atlanta Bid or offer to do the following Work under Agreement, to-wit:

FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)

Affiant states upon oath that _____, has not, by itself or with others, directly or indirectly, entered into any combination, arrangement or scheme, whatsoever, with any other Bidder to increase the price of said Work, or to offer a different sum from its Bids; and Affiant further states that _____, has entered into no arrangement, expressed or implied, to induce others not to bid, or to do any by-bidding.

Affiant further states that the said Bid of _____ is bona fide, and that has gone to any furnisher or supplies and attempted to get such person or company to furnish the materials to _____ only, or if furnished any other Bidder, that the material shall be at a higher price.

(COMPANY NAME)

(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me,

this ____ day of _____, 20____.

Notary Public County: _____
(Secretary)

My Commission expires:

_____.

**INSURANCE COVERAGE AND BONDING CAPACITY
CITY OF ATLANTA**

FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)

The Bidder shall provide the City with satisfactory evidence of the Bidder's ability to obtain the required insurance and bonds from (a) company (ies) satisfactory to the City and licensed by the Insurance Commissioners of the State of Georgia to transact Surety business in the State of Georgia. Bidder shall submit this form with bid.

SURETY:

COMPANY NAME: _____

COMPANY ADDRESS: _____

CONTACT NAME AND PHONE: _____

BONDING CAPACITY IS: _____

AVAILABLE (uncommitted) BONDING CAPACITY IS: _____

Bidder is also **REQUIRED** to submit a letter from the Company providing insurance and bonds for this project certifying that the Company will provide insurance and bonds in accordance with the terms set forth in Appendix B.

INSURER: _____

COMPANY NAME: _____

COMPANY ADDRESS: _____

CONTACT NAME AND PHONE: _____

COMPANY NAME

PRESIDENT/VICE PRESIDENT

Sworn to and subscribed before me this __ day of _____, 20__.

SECRETARY/ASSISTANT SECRETARY
(affix corporate seal, here if a corporation)

CONTRACTOR'S DISCLOSURE FORM AND QUESTIONNAIRE

1. Please provide the names and business addresses of each of the Contractor's officers, director's, affiliates and other employees, agents or representative of this form, the subject project, **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)**.

For the purposes of this form, the term "affiliate" of any Contractor shall mean any person or entity which directly or indirectly controls or is controlled by, or is under common control with such Contractor. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by entreat, or otherwise.

Describe accurately, fully and completely, their respective relationships with said Contractor, including their ownership interests and their anticipated role in the management and operations of said Contractor.

2. Please describe the general development of said Contractor's business during the past five (5) years, or such shorter period of time that said Contractor has been in business.
3. Please state whether any of the following events have occurred in the last five (5) years with respect to said Contractor. If any answer is yes, explain fully the following:
 - (a) Whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Contractor, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Contractor;
 - (b) Whether Contractor was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Contractor from engaging in any type of business practice, or otherwise eliminating any type of business practice; and
 - (c) Whether said Contractor's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said Contractor which directly arose from activities conducted by the business unit or corporate division of said Contractor which submitted a bid or bid for the subject project, if so please explain.
4. Please state whether any employee, agent or representative of said Contractor who is or will be directly involved in the subject project has or had within the last five (5) years; (i) directly or indirectly had a business relationship with the City of

Contractor's Disclosure Form and Questionnaire
FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)
Page Two

Atlanta (the "City"), (ii) directly or indirectly received revenues from the City or (iii) directly or indirectly receives revenues from the result of conducting business on City property or pursuant to any contract with the City. Please describe any such relationship.

5. Please state whether any employee, agent or representative of said Contractor who is or will be directly involved in the subject project has or had within the last five (5) years a direct or indirect business relationship (to the best of your knowledge and belief) with any elected or appointed City official or with any City employee, and fully describe such business relationship.

NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Contractor's most recent filings with the Securities and Exchange Commission (SEC) may be provided if they are responsive to certain items within the questionnaire). However, for purposes of clarity, Contractor should correlate its responses with the exhibits by identifying the exhibit and its relevant text.

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by the City. Such disclosure must be submitted at the time of the bid or bid submission and included as a part of the bid/bid submitted for this project. Disclosure is required for Contractors, joint venture partners and first-tier Subcontractors and/or Sub-consultants.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by the City can result in the bid/bid declared as non-responsive. This document must be completed and included as a part of the bid/bid package along with other required documents.

Under penalty or perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

(Required Submittal)

On this _____ day of _____,
20__

(Legal Name of Bidder)

(Signature of Authorized Representative)

(Title)

(Date)

Sworn to and subscribed before me,

this _____ day of _____, 20__

(Notary Public) (Seal)

Commission Expires _____
(Date)



**CITY OF ATLANTA AFFIDAVIT
VERIFYING STATUS FOR RECEIPT OF PUBLIC BENEFIT
SUBMITTED TO DEPARTMENT OF PROCUREMENT**

S.A.V.E

By executing this affidavit under oath, as an applicant for a City of Atlanta Contract, Business License or Georgia Occupation Tax Certificate, Alcohol License, Taxi Permit, Insurance Company License or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Atlanta public benefit:

For: _____
[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) _____ I am a United States Citizen

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States. *** All non-citizens must provide their Alien Registration Number below.**

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20____

NOTARY PUBLIC

My commission expires: _____

Signature of Applicant: _____

Date: _____

Printed Name: _____

* _____
Alien Registration number for non-citizens

***Note:** O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien," legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

Exhibit A: Illegal Immigration Reform and Enforcement Act Forms

INSTRUCTIONS TO BIDDERS:

All Bidders must comply with the Illegal Immigration Reform and Enforcement Act, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Bidders must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Bidders must not rely on these instructions for that purpose. They are offered only as a convenience to assist Bidders in complying with the requirements of the City's procurement process and the terms of this BID.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the bid/bid prior to bid due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent/Bidder is such that Proponent/Bidder is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Bidder must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Bidder itself. Where the business structure of a Bidder does not require it to obtain an EIN, each entity comprising Bidder must submit a separate Contractor Affidavit.

Example 1, ABC, Inc. and XYZ, Inc. form and submit a bid as Acme Construction, LLC. Acme Construction, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Acme Construction, LLC which includes the Federal Work Authorization User ID Number issued to Acme Construction, LLC.

Example 2, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a bid/bid under the name Acme Construction, JV. If, based on the nature of the JV agreement, Acme Construction, JV is not required to obtain an Employer Identification Number from the IRS. The Bid/Bid submitted by Acme Construction, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be duly notarized.
6. All Contractor Affidavits must be submitted with bid/bid package.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of bid/bid submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor:

Name of Project:

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on _____, _____, 20__ in _____ (city), _____
(state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 201__

NOTARY PUBLIC
My Commission Expires: _____

Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (_____) (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor:

Name of Project:

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on _____, ____, 20__ in _____ (city), _____
(state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 20____

NOTARY PUBLIC

My Commission Expires: _____

Sub-subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(4)

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for (_____) (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)) and (_____) (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. §13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to (_____) (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to (_____) (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor:

Name of Project:

Name of Public Employer: City of Atlanta

I hereby declare under penalty of perjury that the forgoing is true and correct.

Executed on _____, ____, 20__ in _____ (city), _____
(state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 20____

NOTARY PUBLIC
My Commission Expires: _____

BID SCHEDULE FOR:

FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)

TO: The City of Atlanta, Georgia Submitted: _____, 20____

The undersigned, as Bidder, hereby declares that the only person or persons interested in this Bid, as principal or principals, is or are named herein and that no other person, than herein mentioned has any interest in this Bid or in the Agreement to be entered into, that this Bid is made without connection with any other person, company or parties making a Bid or bid; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he has examined the Site of Work and fully informed himself in regard to all conditions pertaining to the place where the Work is to be done; that he has examined the Agreement Documents for the Work furnished prior to the opening of Bids; and that he has satisfied himself relative to the Work to be performed.

The Bidder proposes and agrees, if this Bid is accepted, to contract with the City, in the form of Agreement specified, to furnish all necessary Materials, Equipment, means of transportation and labor necessary, and to complete this Project in full and complete accordance with the shown, noted, described and reasonably intended requirements of the Agreement Document to the full and entire satisfaction of the City, and with a definite understanding that no money will be allowed for extra work except as set forth in the Agreement Document.

Bidder hereby agrees to commence Work under this Agreement on or before a date to be specified in the written "Notice to Proceed" from the City.

The undersigned acknowledges receipt of addenda numbered _____ through _____

In accordance with the above understanding, the undersigned proposes to do all of the Work, furnish all of the Materials, and complete the Work in accordance with the Agreement Documents for the Total Bid.

TOTAL BID

Annual Cost for: FC-5965, ADA Parking Lot Spatial Improvements at Various Locations (BID)

(\$ _____)

Total Bid In Words _____

Bid Schedule (cont'd.)

Page 2

If applicable, the undersigned Contractor understands that quantities are approximate and subject to either increase or decrease by City. Undersigned agrees to do any additional or subtracted based on unit prices set forth herein and the undersigned will make not claims for anticipated profits for any decreases in the quantities. Actual quantities will be determined upon completion of the job.

The undersigned also agrees that extra work, if any, performed in accordance with the General Conditions will be paid for in accordance with the provisions therein. Amounts shall be shown in both words and figures, where indicated. In case of discrepancy the amount shown in words will govern.

The bid prices shall include all costs of completion of the work except as otherwise specified in the Contract Documents. The names and residence addresses of all persons and parties interested in the forgoing bid as principals are as follows:

(Give first and last names in full. In the case of a corporation, give name of president, treasurer, and manager and in the case of a partnership, give names and addresses of members.)

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work. Notice of acceptance should be mailed, telegraphed, or delivered to the undersigned bidder at the following address:

(Name of Bidder) _____

(Signature of Authorized Representative) _____

(Title) _____

(Business Address) _____

(City and State) _____

**Itemized Tabulation Sheet for:
FC-5965, ADA Parking Lot Spatial Improvements at Various Locations**

Please state the total SUMS below for all costs, direct and indirect, administrative costs, and all things necessary for provision of the various sites.

Additionally, each Bidder must provide a detailed narrative for the total cost submitted on the Bid Schedule. Submit a justification of your cost rational, intended suppliers, contingencies, etc., in order to provide the City with a summary of your intensions for the future project.

(Bessie Branham)

- ADA stripes & markings \$ _____
- Asphalt demolition and disposal \$ _____
- Concrete framing and installation \$ _____
- Elevated walkway/crosswalk \$ _____
- Erosion Control \$ _____
- Sign Installation \$ _____
- Site restoration \$ _____
- Subbase preparation \$ _____

(Central)

- ADA stripes & markings \$ _____
- Asphalt demolition and disposal \$ _____
- Concrete framing and installation \$ _____
- Elevated walkway/crosswalk \$ _____
- Erosion Control \$ _____
- Sign Installation \$ _____
- Site restoration \$ _____
- Subbase preparation \$ _____

(Required Submittal)

(Cyclorama)

- ADA stripes & markings \$ _____
- Asphalt demolition and disposal \$ _____
- Concrete framing and installation \$ _____
- Elevated walkway/crosswalk \$ _____
- Erosion Control \$ _____
- Sign Installation \$ _____
- Site restoration \$ _____
- Subbase preparation \$ _____

(Civic Center)

- ADA stripes & markings \$ _____
- Asphalt demolition and disposal \$ _____
- Concrete framing and installation \$ _____
- Elevated walkway/crosswalk \$ _____
- Erosion Control \$ _____
- Sign Installation \$ _____
- Site restoration \$ _____
- Subbase preparation \$ _____

TOTAL BID AMOUNT PRICE

(This amount should be the same as total listed on your Bid Schedule)

\$ _____

(MINIMUM QUALIFICATIONS)

- a. Bidder must have a minimum of five (5) years of continuous experience operating as a licensed Corporation under the same name. This minimum requirement **must be outlined in the bid submittal package and clearly defined.**
- b. Bidder must exhibit sufficient work experience, outlining a minimum of ten (10) years experience in the pre-placement, placement, and post-placement of concrete operations. This minimum requirement **must be outlined in the bid submittal package and clearly defined.**
- c. Bidder must utilize only experienced workers that are skilled in the trade involved. The Bidder must be a current member or have key person/personnel that are a member of a technical and educational society in concrete technology, such American Concrete Institute (ACI), National Institute for Certification in Engineering Technologies (NICET), etc. The company shall specialize in concrete application with a minimum of five (5) years documented experience. This minimum requirement **must be outlined in the bid submittal package and clearly defined.**

(ADDITIONAL REQUIRED SUBMITTALS)

- **Technical Approach:** Bidders are required to describe in writing the procedures and methods that will achieve the required outcome of the project as stipulated in "Statement of Work" of this solicitation. Describe how each phase will be implemented. Describe what resources will be used to obtain the gradient levels as required per the construction documents. A detailed project plan that will cover the chronology of the project, which includes every component of the Scope of Work, is required.
- **Team Organization and Personnel:** Attach an **organizational chart** with office contacts, and titles of all key personnel. A **written description of the organization**, defining lines of authority, responsibility, communication and the overall workings of the organization must be outlined. Identify your Project Manager(s) and describe the person's relevant qualifications and experience. Provide license numbers or copies of licenses, certifications and/or registration certificates as appropriate. If responding as a Joint Venture team, then the lead firm should be designated with a Project Manager identified as the single point of contact.
- **Experience:** Demonstrate your ability to perform the work outlined under Part III, Scope of Works, of the above-referenced; on schedule and the logistics used to remain within your proposed total cost. Contractor shall provide experience in similar, in which ADA compliant ramps, curb-cuts, parking lots, and signage where a part of the scope. Provide a brief summary for a minimum of (3) three similar ADA Site Renovation projects valued at a similar budget as the one you proposed for this Bid. Provide a minimum of two (2) references for each of the three (3) projects described **(REFERENCES MUST BE MADE AWARE THAT YOUR FIRM HAS SUBMITTED THEIR NAME AS A REFERENCE. IF FOR ANY REASON THE CITY IS UNABLE TO COMMUNICATE WITH A PROVIDED**

REFERENCE DURING THE REVIEW PROCESS, THE BIDDER WILL NOT GAIN CREDIT FOR SATISFYING THIS REQUIREMENT). Include client's/owner's name, address and phone number as well as the owner's representative name, address and phone number.

Project examples must include, but not be limited to, the following:

- Project name and location;
- Contractor's Project Manager;
- Project Description (including narrative of major project components and the components for which your company was responsible)
- **"COLOR" Photographs (ARE A MUST AND BIDDERS WILL BE DEEMED NON-RESPONSIVE IF NOT SUBMITTED);**
- Contract value (detailing any change orders or changes in contract);
- Contract schedule (start and end dates, detailing any change orders or changes in contract);
- Designer/Engineer name and contact information; and
- Client (Owner) name and contact information.

The following submittals shall be completed and submitted with each Bid see table below "Required Bid Submittal Check Sheet." Please verify that these submittals are in the envelope before it is sealed.

Submit one (1) Original Bid, signed and dated, and five (5) complete copies of the Original Bid including all required attachments.

Item Number	Required Bid Submittal Check Sheet	Check (✓)
1	Appendix A - Office of Contract Compliance Requirements	
2	Appendix B - Insurance and Bonding Requirements	
3	Letter from Surety Evidencing Bondability	
4		
5	<p>Exhibit B – All Required Submittal Forms (if any of the required submittal documents are not submitted or incomplete within your bid package, your firm will be deemed non-responsive). Required Submittals included but not limited to:</p> <ul style="list-style-type: none"> • Authorization to Transact Business • Bid Guarantee (Bid bond or Certified Check) • Bid Documentation • Statement of Bidders Qualifications • Affidavit • Bonding Capacity • Contractors Disclosure • S.A.V.E • GSICA/IREA • Bid Schedule/Itemized Cost (Submittal must include totals for all line items as well as the total base bid. All dollars amounts must be BOTH in writing and figures and represent prices for the published Scope of Work without exceptions). • Minimum Qualifications & Additional Required Submittals 	
6	Bidder's Name:	
7	Contact Person:	
8	Telephone Number:	
	Facsimile Number:	

EXHIBIT B
WAGE RATES

General Decision Number: GA120003 01/06/2012 GA3

Superseded General Decision Number: GA20100003

State: Georgia

Construction Type: Highway

Counties: Cherokee, Clayton, Cobb, Dekalb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale Counties in Georgia.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number Publication Date
0 01/06/2012

SUGA2011-003 03/07/2011

	Rates	Fringes
CARPENTER.....	\$ 11.16	
CEMENT MASON/CONCRETE FINISHER...	\$ 10.99	
LABORER		
Asphalt Raker.....	\$ 11.00	
Asphalt Screed Person.....	\$ 10.50	
Common or General.....	\$ 9.00	
Form Setter.....	\$ 10.35	
Guardrail Erector.....	\$ 13.50	
Milling Machine Ground Person.....	\$ 10.00	
Pipe Layer.....	\$ 10.20	
Traffic Control Barricade Flagger.....	\$ 10.00	
POWER EQUIPMENT OPERATOR:		
Asphalt Distributor.....	\$ 14.10	
Asphalt Paver/Spreader.....	\$ 12.28	
Backhoe/Excavator.....	\$ 10.80	
Bulldozer.....	\$ 11.60	
Compactor.....	\$ 10.00	
Concrete Curb Machine.....	\$ 16.45	
Crane/Dragline.....	\$ 17.50	
Crusher.....	\$ 14.00	
Front End Loader.....	\$ 10.70	
Material Transfer Vehicle (Shuttle Buggy).....	\$ 11.30	
Mechanic.....	\$ 14.47	
Milling Machine.....	\$ 12.37	
Motorgrader Fine Grade.....	\$ 14.55	
Motorgrader/Blade.....	\$ 14.39	
Roller.....	\$ 10.00	
Scraper-Pan.....	\$ 10.00	
Sweeper Truck.....	\$ 14.21	
Water Truck.....	\$ 11.25	
TRUCK DRIVER		
26,000 GVW & Under.....	\$ 10.76	

26,001 GVW & Over.....\$ 14.91

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

EXHIBIT C
DRAFT AGREEMENT

DRAFT CITY - CONTRACTOR AGREEMENT

STATE OF GEORGIA
COUNTY OF FULTON

THIS AGREEMENT made and entered into this the ____ day of _____, 20__, by and between the City of Atlanta, a municipal corporation of the State of Georgia, (hereinafter the "City") and _____ (hereinafter the "Contractor").

WITNESSETH:

WHEREAS, the City desires to engage Contractor to perform all Work required by the Contract Documents for **FC-5965, ADA Parking Lot Spatial Improvements at Various Locations** (the "Project"); and

WHEREAS, Contractor has the necessary personnel and facilities to perform the Work; and

WHEREAS, the Department of Parks, Recreation and Cultural Affairs as recommended Agreement award to Contractor; and

WHEREAS, by resolution adopted by the City Council of the City on the ____ day of _____, 20__, and approved by the Mayor on the ____ day of _____, 20__, attached hereto, marked "Exhibit A" and made a part hereof by reference, the Mayor was authorized to enter into an Agreement with said Contractor for said Work.

NOW, THEREFORE, for and in consideration of the mutual Agreement between the parties hereinafter, and for other good and valuable consideration, the parties hereto do agree as follows:

1.

The City hereby engages Contractor to perform, and Contractor agrees to perform for the City, all Work required by the Agreement Documents relative to the Project. Contractor shall commence the Work within ten (10) calendar days after receipt of Notice to Proceed and shall substantially complete within the time stated in the Bid Solicitation.

2.

- a) Contractor represents that it has, or will secure at its own expenses, all personnel required to perform all Work to be completed under this Agreement;
- b) All the Work required hereunder will be performed by Contractor or under the direct supervision of Contractor. All personnel engaged in the Work by Contractor shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such Work;

- c) None of the Work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Contractor without the prior written consent of the City.

3.

The Agreement Documents relative to this Agreement consist of:

This City-Contractor Agreement;
The Performance Bond;
The Payment Bond;
Bid Guarantee;
Statement of Bidders Qualifications;
Affidavit;
Equal Business Opportunity Program;
Business Non-Discrimination Policy;
First Source Jobs Policy - Employment Agreement;
Bid Proposal; and Any Bid Schedule and/or Bid Data;
Georgia Security & Immigration Compliance;
Instructions to Bidders;
General Conditions;
Technical Specifications;
Plans for the Project;
Legislation;
Any Addenda thereto or Modification thereof (as defined in the General Conditions).

These collectively form the Agreement, and are all as fully a part of the Agreement as if attached to this Agreement or repeated herein.

4.

All reports, information, data, or other documents, given to, prepared by or assembled by Contractor under this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the prior written approval of the City.

5.

The City may, from time to time, request changes in the Scope of Work to be performed by Contractor hereunder. No such change, including any increase or decrease in the amount of the compensation, which may be mutually agreed upon by and between the City and Contractor, shall be effective and enforceable until and unless a written amendment or change order to this Agreement has been executed by both parties and attached hereto.

6.

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for Contractor to solicit or secure this Agreement; and that it has not paid or

agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for Contractor any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the above warranty and upon a finding after notice and hearing, the City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

7.

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances ("**Ordinance**"), City of Atlanta, and to warrant the following:

- a) The Contractor shall not discriminate against any employee, or applicant for employment because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include, without limitation, the following:

Recruited whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of the non-discrimination clause.

- b) The Contractor shall, in all solicitation or advertisement for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for the employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.
- c) The Contractor shall send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Contractor commitments under the Equal Employment Opportunity Program of the City and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades, who are below the journeyman level, with the U.S. Bureau of Apprenticeship and Training.
- d) The Contractor shall furnish all information and reports required by the Contract Compliance Officer pursuant to the Code of Ordinances, and shall permit access to the books, records and accounts of the Contractor during the normal business

hours by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.

- e) The Contractor shall take such reasonable action with respect to any Subcontractor as the City may direct, as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as may be necessary to protect the interest of the City and to effectuate the Equal Employment Opportunity Program of the City; and, in the case of contracts receiving federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interest of the United States.
- f) The Contractor and its Subcontractors, if any, shall file compliance reports at reasonable times and intervals with the City in the form and to the extent prescribed by the Contract Compliance Officer of the City. Compliance reports filed at such time directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its Subcontractors.
- g) The Contractor shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order which materially affects the Project so that such provisions will be binding upon each such Subcontractor or vendor.
- h) A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
 - (1) Withholding from the Contractor in violation all future payments under the involved public contract until it is determined that the Contractor or Subcontractor is in compliance with the provisions of the Agreement.
 - (2) Refusal of all future bids for any public contract with the City or any of its departments or divisions until such time as the Contractor or Subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in this article.
 - (3) Cancellation of the public Agreement.
 - (4) In a case in which there is substantial or material violation, or the threat of substantial or material violation, of the compliance procedure therein set forth or as may be provided for by this Agreement, an appropriate proceeding may be brought to enforce these provisions, including the enjoining of Contractor, Subcontractor, or other organizations, individuals or groups who

prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

8.

During the performance of this Agreement, Contractor agrees to comply with Part 2, Chapter 2, Article X, Division 12, including Sections 2-1414 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity ("EBO") Program and to warrant the following:

"The Contractor agrees to make good faith efforts to meet the goals for this Agreement by making available opportunities for Minority Business Enterprises ("MBE"), African American Business Enterprises ("AABE"), Hispanic Business Enterprises ("HBE"), Asian Business Enterprises ("ABE") and Native American Business Enterprises ("NABE") and Female Business Enterprises ("FBE") for utilization in the work set forth within this Agreement and shall take the following action as part of their good faith efforts:

1. Notification to MBE and FBE that the Contractor has subcontracting opportunities available and maintenance of records of the MBE and FBE responses.
2. Maintenance by the Contractor of a file of the names and addresses of each MBE and FBE contracted and action taken with respect to each such contract.
3. Dissemination of the Contractor EBO policy externally by informing and discussing it with all management and technical assistance sources; by advertising in news media and by notifying and discussing it with Subcontractor and Supplier.
4. Specific and continuing written and oral recruitment efforts directed at MBE and FBE Contractor organizations, MBE and FBE assistance organizations.
5. Sub-divisions for the contract economically feasible segments as practical to allow the greatest opportunity for participation by MBE and FBE.
6. Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases material for as many MBE and FBE Subcontractors as possible.
7. Adoption of the EBO Plan submitted in its response to the Invitation for Bids or Requests for Proposals obligations under this Agreement, as approved by the Office of Contract Compliance.
8. Submission of monthly reports on the forms and to the extent required by the Director of the Office of Contract Compliance, to be due on the last day of each month following the award of the Work set forth in this Agreement.

9. The Contractor further agrees that breach of the EBO provisions contained herein shall subject them to any or all of the following penalties:
- a). Withholding of ten percent (10%) of all future payments under the involved eligible project until it is determined that the Contractor is in compliance.
 - b). Withholding of all future payments under the involved Project until it is determined that the Contractor is in compliance.
 - c). Refusal of all future bids or offers for any eligible project with the City of Atlanta or any of its department or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the EBO provisions contained herein.
 - d). Cancellation of the eligible project.

9.

Liquidated Damages

It is understood and agreed that the City will sustain substantial monetary and other injury and damages, including, but not limited to, increased costs, expenses and liabilities in the event of failure by the Contractor to perform its Work in accordance with the Completion and any Interim Milestone Date(s) set forth in Project Network Schedule prepared in accordance with the Special Conditions. Accordingly, should the Contractor not complete the Work, or any such portion thereof, within the date(s) required by the Project Network Schedule initially approved by the Engineer, as they may be adjusted pursuant to the Agreement Documents, then charges shall be assessed against any money due or that may become due the Contractor in accordance with the following schedule:

For Each delay in Substantial Completion of the entire Work: \$ 500/ day

For Each day of delay in Final Completion of the entire Work: \$ 500/ day

The amount of such charges is hereby agreed upon as fixed liquidated damages due the City after the expiration of the Agreement Date(s) for completion specified in the Project Network Schedule for the Work or portions thereof. The Contractor and its surety shall be liable for any liquidated damages in excess of the amount due the Contractor on the Final Payment.

The fixed liquidated damages are not established as a penalty but are calculated and agreed upon in advance by the City and the Contractor due to the uncertainty and impossibility of making a determination as to the actual direct, incidental and consequential damages which are incurred by the City as a result of the failure on the part of the Contractor to complete the Work within the Agreement Completion Date(s) specified above. Liquidated damages shall start in accordance

with the above schedule upon notification to the Contractor in writing that all apparent Agreement Time allowed to achieve the relevant Completion Date has been consumed. Liquidated Damages as they accrue will be deducted from periodic partial payments to the extent they are sufficient to cover the liquidated damages owing; provided that any excess liquidated damages owing over the periodic partial payment amount may be deducted from retainage. Such deduction shall be in addition to the retainage provided for in the Agreement. The remaining amount of liquidated damages owing upon completion will be deducted from any amounts owing as Final Payment to the Contractor or his surety. Any excess amount owing as liquidated damages shall be paid upon demand.

10.

The City agrees to pay Contractor for the Work performed pursuant to this Agreement on an as needed basis per the unit price as stated in the Fee Schedule, hereinafter attached as Exhibit B, for amount not to exceed _____ Dollars.

11.

The terms of the Agreement shall be for Ninety (90) calendar days, with the option to extend for six (6) additional months at the sole discretion of the City.

12.

Contractor, by the execution of this Agreement, acknowledges that it is possessed of that degree of care, learning, skill, and ability which is ordinarily possessed by other members of its profession and further contracts that in the performance of the duties herein set forth, it will exercise such degree of care, learning, skill and ability as is ordinarily employed by Contractor under similar conditions and like circumstances and shall perform such duties without neglect.

13.

Contractor agrees to obtain and maintain during the entire term of this Agreement all of the insurance called for in the Agreement Documents, with the City as an additional insured in each policy of public liability and property damage insurance, and shall furnish to the City a certificate of insurance showing required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

14.

In addition to its agreement to obtain and maintain the insurance as set forth herein above, the Contractor agrees that to the fullest extent permitted by law, the Contractor shall at his sole cost and expense indemnify, defend, satisfy all judgments and hold harmless the City, the Designer, the Engineer, and their agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom; and (2) is caused in whole or in part by any act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in Appendix B, Insurance and Bonding Requirements, Paragraph F.

In any and all claims against the City, the Engineer or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation in Appendix B, Insurance and Bonding Requirements, Paragraph F, shall not be limited in any way, including, but not limited by, the limits of the liability insurance required under this Agreement and the Agreement Documents, nor limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmens' compensation acts, disability benefit acts or other employee benefit acts.

15.

The Contractor shall obtain, at its own expense, all permits and licenses required by all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the performance of the work called for by this Agreement. The Agreement Documents, including this Agreement, constitute the entire and integrated Agreement between the City and the Contractor and may be amended only by written instrument approved by both parties. The parties agree that this Agreement shall not become binding on the City, and the City shall incur no liability upon the same, until this Agreement has been executed by the Mayor, officially sealed by the Municipal Clerk and delivered to Contractor.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement by their duly authorized officers, as of the date first above written.

CITY OF ATLANTA:

By: _____
Mayor

ATTEST:

Municipal Clerk

RECOMMENDED:

Commissioner, Department of Parks,
Recreation and Cultural Affairs

APPROVED:

Chief Procurement Officer

APPROVED AS TO FORM:

City Attorney

CONTRACTOR:

By: _____
President/Vice President

ATTEST:

Corporate Secretary/Asst. Secretary
(affix seal)

EXHIBIT D

PAYMENT & PERFORMANCE BOND FORMS

Payment Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Payment Bond

"City" City of Atlanta, Georgia

"Project" ADA Parking Lot Spatial Improvements at Various Locations (BID)

"FC No." 5965

"Principal" (Legal Name and Business Address)

Type of Organization ("X" one):
☐ Individual
☐ Partnership
☐ Joint Venture
☐ Corporation

"Surety:" (Name and Business Address)

duly authorized by the Commissioner of Insurance of
the State of Georgia to transact surety business in the
State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20__, regarding
performance of Work relative to the Project.

"Penal Sum:" _____ Dollars (\$ _____).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall make payment of all Subcontractors and all persons supplying labor, Materials, machinery and Equipment for the performance of said work, this obligation shall be void; otherwise of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

It is agreed that this bond is executed pursuant to and in accordance with the provisions of Section 13-10-1 and 36-82-101 *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20__.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer

Performance Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Performance Bond

"City" City of Atlanta, Georgia

"Project" ADA Parking Lot Spatial Improvements at Various Locations (BID)

"FC No." 5965

"Principal" (Legal Name and Business Address)

Type of Organization ("X" one):

☐ Individual
☐ Partnership
☐ Joint Venture
☐ Corporation

"Surety:" (Name and Business Address)

duly authorized by the Commissioner of Insurance of
the State of Georgia to transact surety business in the
State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20__, regarding
performance of Work relative to the Project.

"Penal Sum:" _____ Dollars (\$ _____).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20__.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer